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AMERICAN FISHERIES PROMOTION

HEARINGS

BEFORE THE

SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT

OF THE

COMMITTEE ON MERCHANT MARINE AND FISHERIES HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

SECOND SESSION

ON

H.R. 7039

A BILL TO PROVIDE FOR COMPREHENSIVE RESEARCH AND DEVELOPMENT REGARDING UNITED STATES FISHERIES, TO EXPAND THE FISHING VESSEL AND PROCESSING CAPACITY OF THE UNITED STATES, AND FOR OTHER PURPOSES

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AMERICAN FISHERIES PROMOTION

TUESDAY, MAY 6, 1980

House of Representatives,
Committee on Merchant Marine and Fisheries,
Subcommittee on Fisheries and Wildlife
Conservation and the Environment,
Washington, D.C.

The subcommittee met at 9:40 a.m., in room 1334, Longworth House Office Building, Hon. John B. Breaux (chairman of the subcommittee) presiding.

Present: Representatives Breaux, Bonker, Oberstar, Hughes, Anderson, Studds, AuCoin, Forsythe, and Emery.

Staff present: G. Wayne Smith, Ted Kronmiller, Ned Everett, George Mannina, and Norma Moses.

Mr. **Breaux**. The Subcommittee on Fisheries and Wildlife Conservation and the Environment will come to order.

This morning, the subcommittee will receive testimony on H.R 7039, the American Fisheries Promotion Act. The aim of this proposal is to provide a comprehensive solution to the multitude of problems facing both the harvesting and processing sectors of the American fishing industry. I am very pleased that the bill so far has received such widespread support from American fishermen.

Statistics recently provided to me by the National Marine Fisheries Service, NMFS, represent compelling evidence that the kind of bold initiative reflected in H.R. 7039 is essential not only to the meaningful growth of our fishing industry, but also to the very survival of major components of it.

NMFS reported last week that in 1979, U.S. fishermen accounted for only 33 percent of the harvest in the 200-mile fishery conservation zone established by the Fishery Conservation and Management Act of 1976, the FCMA.

NMFS estimates that 75 percent of our gulf shrimp fleet, which has annually contributed 24 percent of our national food fish harvest, is tied to the docks, that 25 percent of our gulf shrimpers face possible default on their vessel mortgages, and that the Federal Government has a potential liability of $36 million under the title XI vessel obligation guarantee program.

U.S. imports of fisheries products amounted to $3.8 billion in 1979, while our exports of those products added up to only about $1 billion. This $2.8 billion trade gap represented 10 percent of our national balance-of-payments deficit which continues to fuel the inflation ravaging our economy.

As we all know, the reasons for these serious problems are many and interrelated. However, some people in the industry have been

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unwilling to admit that a modest, piecemeal approach to the resolution of our difficulties cannot succeed.

H.R. 7039 recognizes three critically important facts: One, immediate, substantial, and realistic financial assistance is needed to permit the survival of valuable sectors of our fishing industry; two, new, ambitious, long-term programs are needed if the industry is to realize its vast potential for the benefit of this Nation; and three, all of this most be achieved without the expenditure of significant additional sums of Federal tax dollars.

I strongly believe that H.R. 7039 responds to these realities. The following are the principal components of my bill:

One, a revitalization of the Fisheries Loan Fund for a limited period of time to provide low-interest loans to fishermen about to default on their vessel mortgages due to circumstances beyond their control;

Two, a revitalization of the Saltonstall-Kennedy fisheries research and development program to assure maximum industry participation and optimum use of available funding;

Three, reasonable new fees on foreign fishing in our zone to provide necessary supplemental funds to the Fisheries Loan Fund and the Saltonstall-Kennedy program;

Four, extension of the Capital Construction Fund tax deferral benefits and the title XI obligation guarantees to fish processors that are at least 75 percent U.S.-owned;

Five, a phaseout of foreign fishing in the U.S. zone on a schedule designed to offer our fishermen a reasonable expectation—not an unreasonable guarantee—of an end to foreign fishing in the near future, and thus encouraging investment and opening foreign markets;

Six, an express link between improved access to foreign markets and allocations of our surplus fish to foreign fishermen;

Seven, special fisheries attachés in key foreign capitals to assist in market development for U S. products; and

Eight, 100-percent observer coverage on foreign fishing vessels until they are phased out.

I want to emphasize that I am committed to comprehensive fisheries development legislation. While I am, of course, prepared to consider amendments to H.R. 7039, I am determined to do my utmost to arrive at a final product which will effectively and pragmatically assist the American fishing industry.

I look forward to cooperating and working with the administration and the industry toward the goals that I think they share and that we must achieve before the U.S. fishing industry, as we know it today, is no longer with us.

Are there any other opening comments?

Mr. Forsythe?

Mr. FORSYTHE. Thank you, Mr. Chairman.

Fisheries development is a dream that I have had for a long, long time, and I heartily congratulate you on bringing this legislation to hearings. I think our goals are absolutely parallel, and if our 200-mile fishing zone bill is to have real meaning so far as American fishermen, the American people, and the American balance of payments are concerned, it will take a bold initiative. I look forward to the completion of these hearings and the movement of this legislation to final passage.

[The bill and departmental reports follow:]

I

96TH CONGRESS
2D SESSION

H. R. 7039

To provide for comprehensive research and development regarding United States fisheries, to expand the fishing vessel and fish processing capacity of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 1980

Mr. BREAUX (for himself, Mr. MURPHY of New York, and Mr. FORSYTHE) introduced the following bill; which was referred jointly to the Committees on Merchant Marine and Fisheries and Rules

---

A BILL

To provide for comprehensive research and development regarding United States fisheries, to expand the fishing vessel and fish processing capacity of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "American Fisheries Promotion Act".

TITLE I—RESEARCH AND DEVELOPMENT REGARDING UNITED STATES FISHERIES

SEC. 101. RESEARCH AND DEVELOPMENT PROJECTS AND PROGRAMS.

(a) AMENDMENTS TO SALTONSTALL-KENNEDY ACT.—Section 2 of the Act of August 11, 1939 (commonly referred to as the Saltonstall-Kennedy Act, 15 U.S.C. 713c–3), is amended—

(1) by striking out subsections (b), (c), (d), and (e);

(2) by redesignating subsection (a) as subsection (b);

(3) by inserting immediately before subsection (b) (as so redesignated) the following new subsection:

"SEC. 2. (a) DEFINITIONS.—As used in this section—

"(1) The term 'person' means—

"(A) any individual who is a citizen or national of the United States; and

"(B) any corporation, partnership, association, or other entity (including, but not limited to, any fishery development foundation), nonprofit or otherwise, if such entity is a citizen of the United States within the meaning of section 2 of the Shipping Act, 1916 (46 U.S.C. 802) and for purposes of applying such section 2 with respect to this section—

"(i) the term 'State' as used therein includes any State referred to in paragraph (3), and

"(ii) citizens of the United States must own not less than 75 percent of the interest in the entity and individuals who are nationals of the United States shall be treated as citizens of the United States in meeting such ownership requirement.

"(2) The term 'Secretary' means the Secretary of Commerce.

"(3) The term 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands of the United States, Guam, the Commonwealth of the Northern Marianas, and any other Commonwealth, territory, or possession of the United States.

"(4) The term 'United States fishery' means—

"(A) any fishery subject to the exclusive management authority of the United States under the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.);

"(B) any tuna fishery within the fishery conservation zone established by section 101 of such Act of 1976 (16 U.S.C. 1811); and

"(C) any fishery, other than one described in subparagraph (A) or (B), that is, or may be, engaged in by citizens or nationals of the United States.";

(4) by amending subsection (b) (as so redesignated)—

(i) by inserting "FUND.—" immediately after "(b)" and before the first word of such subsection,

(ii) by striking out "Secretary of the Interior" each place it appears therein and inserting in lieu thereof "Secretary", and

(iii) by striking out clauses (1), (2), and (3) and inserting in lieu thereof the following: "(1) to provide financial assistance for the purpose of carrying out fisheries development projects approved under subsection (c); and (2) to implement the national fisheries research and development program provided for under subsection (d)."; and

(5) by adding immediately after subsection (b) (as so redesignated) the following:

"(c) FISHERIES RESEARCH AND DEVELOPMENT PROJECTS.—(1) The Secretary shall make grants from the fund established under subsection (b) to assist persons in carrying out research and development projects addressed to any aspect of United States fisheries, including, but not limited to, harvesting, processing, marketing, and associated infrastructures.

"(2) The Secretary shall—

"(A) at least once each fiscal year, receive, during a 60-day period specified by him, applications for grants under this subsection;

"(B) prescribe the form and manner in which applications for grants under this subsection must be made, including, but not limited to, the specification of the information which must accompany applications to ensure that the proposed projects comply with Federal law and can be evaluated in accordance with paragraph (3)(B); and

"(C) approve or disapprove each such application before the close of the 90th day after the last day of the 60-day period (specified under subparagraph (A)) in which the application was received.

"(3) No application for a grant under this subsection may be approved unless the Secretary—

"(A) is satisfied that the applicant has the requisite technical and financial capability to carry out the project; and

"(B) evaluates the proposed project as to—

"(i) soundness of design,

"(ii) the possibilities of securing productive results,

"(iii) minimization of duplication with other fisheries development projects,

"(iv) the organization and management of the project,

"(v) methods proposed for monitoring and evaluating the success or failure of the project, and

"(vi) such other criteria as the Secretary may require.

"(4) Each grant made under this subsection shall be subject to such terms and conditions as the Secretary may require to protect the interests of the United States, including, but not limited to, the following:

"(A) The recipient of the grant must keep such records as the Secretary shall require as being necessary or appropriate for disclosing the use made of grant funds and shall allow the Secretary and the Comptroller General of the United States, or any of their authorized representatives, access to such records for purposes of audit and examination.

"(B) The amount of a grant may not be equal to less than 50 percent, nor more than 75 percent, of the estimated cost of the project.

"(C) The recipient of the grant must submit to the Secretary periodic project status reports.

"(d) National Fisheries Research and Development Program.—(1) The Secretary shall carry out a national program of research and development addressed to such aspects of United States fisheries (including, but not limited to, harvesting, processing, marketing, and associated infrastructures), if not adequately covered by projects assisted under subsection (C), as the Secretary deems appropriate.

"(2) Not later than 60 days before the close of each fiscal year, the Secretary shall, after consultation with appropriate representatives of the fishing industry, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives, a report containing—

"(A) the fisheries development goals and funding priorities under paragraph (1) for the next fiscal year,

"(B) the status of each pending project under paragraph (1), including the amount of money obligated and actually expended on each such project during the current fiscal year; and

"(C) an analysis and evaluation of all projects assisted under subsection (c), including, but not limited to—

"(i) a list of those applications approved and those disapproved under subsection (c), and the total amount of grants made, for the current fiscal year,

"(ii) an assessment of the extent to which the objectives of the assisted projects have been attained,

"(iii) the extent to which the assisted projects have contributed to fishery development, and

"(iv) the extent to which available funds were not obligated or expended by the Secretary for grants under subsection (c) during the current fiscal year.

"(e) ALLOCATION OF FUND MONEYS.—(1) With respect to any fiscal year, not less than 75 percent of—

"(A) the moneys transferred to the fund under subsection (b) or any other provision of law with respect to that fiscal year; and

"(B) such existing fund moneys carried over into that fiscal year

shall be used by the Secretary during that fiscal year to provide financial assistance for projects under subsection (c); and the remainder of such moneys in the fund shall be used to implement the national fisheries research and development program established under subsection (d) during that fiscal year.

"(2) Moneys accruing to the fund established under subsection (b) for any fiscal year and not expended with respect to that year shall remain available for expenditure under this section without fiscal year limitation.".

(b) CERTAIN REQUIRED PROJECTS.—(1) In the administration of section 2 of the Act of August 11, 1939 (as amended by subsection (a)), the Secretary of Commerce shall, if an application is received during fiscal year 1981 or 1982 for a grant under subsection (c) of such section 2 to carry out—

(A) a project to establish and operate a system (in which participation must be voluntary) to grade the quality of fish landed at a United States port; or

(B) a project to improve fuel efficiency in carrying out fishing operations within a United States fishery;

award the grant if the Secretary finds that the applicant and proposed project meet the requirements in paragraph (3) of such subsection.

(2) If an application for a project described in paragraph (1) (A) or (B) is not received during fiscal year 1981 or 1982 (or, if received, the applicant or the proposed project do not meet the requirements in subsection (c)(3) of such section 2), the Secretary of Commerce shall carry out, pursuant to the

national fisheries research and development program under subsection (d) of such section 2, such a project.

SEC. 102. UNITED STATES FISHERIES ATTACHÉS.

(a) APPOINTMENT.—For purposes of carrying out export promotion and other fishery development responsibilities, the Secretary of Commerce (hereinafter in this section referred to as the "Secretary") shall appoint not fewer than six officers who shall serve abroad to promote United States fishing interests. Such officers, who shall be employees of the Department of Commerce, shall have the designation of Fisheries Attachés.

(b) ASSIGNMENT.—Upon the request of the Secretary, the Secretary of State shall officially assign Fisheries Attachés to such diplomatic missions of the United States as the Secretary designates (three of which shall be those in Brussels, Belgium; Rome, Italy; and Tokyo, Japan) and shall obtain for them diplomatic privileges and immunities equivalent to those enjoyed by foreign service personnel of comparable rank and salary.

(c) ADMINISTRATIVE SUPPORT.—The Secretary of State shall provide office space, equipment, facilities, clerical services, and such other administrative support as may be required for Fisheries Attachés and their families.

TITLE II—AMENDMENTS TO THE MERCHANT MARINE ACT, 1936

CHAPTER 1—AMENDMENTS TO TITLE VI

SEC. 201. EXTENSION OF CAPITAL CONSTRUCTION FUND TO FISHERY FACILITIES.

(a) IN GENERAL.—Subsection (a) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177), is amended to read as follows:

"(a) AGREEMENT RULES.—(1) Any citizen of the United States owning or leasing one or more eligible vessels (as defined in subsection (k)(1)), or one or more eligible fishery facilities (as defined in subsection (k)(9)), may enter into an agreement with the Secretary of Commerce under, and as provided in, this section to establish a capital construction fund (hereinafter in this section referred to as the 'fund') with respect to any or all of such vessels or fishery facilities. Any agreement entered into under this section—

"(A) shall be for the purpose of providing—

"(i) replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States for operation in the United States foreign, Great Lakes, or noncontiguous domestic trade, "(ii) replacement fishing vessels, additional fishing vessels, or reconstructed fishing vessels, built in the United States, American Samoa, the Virgin Islands of the United States, or Guam, any other Commonwealth, territory, or possession of the United States and documented under the laws of the United States for operation in the fisheries of the United States, or

"(iii) replacement fishery facilities, additional fishery facilities, or reconstructed fishery facilities, located in the United States, American Samoa, the Virgin Islands of the United States, Guam, or any other Commonwealth, territory, or possession of the United States, and

"(B) shall provide for the deposit in the fund of the amounts agreed upon as necessary or appropriate to provide for qualified withdrawals under subsection (f).

"(2) For purposes of paragraph (1)(A) (ii) and (iii)—

"(A) a previously used fishing vessel or a previously used fishery facility that meets the requirements under this section as an eligible vessel or eligible fishery facility may be covered by an agreement under this section for replacement, addition, or reconstruction purposes; and

"(B) nothing in this section shall be construed as prohibiting the establishment of a capital construction fund (i) with respect to fishing vessels for purposes of acquiring fishery facilities, or (ii) with respect to fishery facilities for purposes of acquiring fishing vessels.

"(3) The deposits in the fund, and all withdrawals from the fund, whether qualified or nonqualified, shall be subject to such conditions and requirements as the Secretary of Commerce may by regulation prescribe or are set forth in such agreement; except that the Secretary of Commerce may not require any person to deposit in the fund for any taxable year more than 50 percent of the sum of (A) that portion of such person's taxable income for such year which is attributable to the operation of the agreement vessels, or (B) that portion of such person's taxable income for such year which is attributable to the operation of agreement fishery facilities. For purposes of the preceding sentence, taxable income shall be computed in the manner provided in subsection (b)(1)(A).".

(b) DEFINITIONS.—Subsection (k) of section 607 of the Merchant Marine Act, 1936, is amended by adding at the end thereof the following new paragraphs:

"(9) The term 'eligible fishery facility' means any fishery facility which is located in the United States.

"(10) The term 'qualified fishery facility' means any fishery facility—

"(A) which is located in the United States, and

"(B) which the person maintaining the fund agrees with the Secretary of Commerce will be used for one or more of the functions described in paragraph (12).

For purposes of this paragraph and paragraph (9), the term 'United States' includes American Samoa, the Virgin Islands of the United States, Guam, and any other Commonwealth, territory, or possession of the United States; and, when applied with respect to a fishery facility described in paragraph (12)(B), includes the fishery conservation zone established by section 101 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1811).

"(11) The term 'agreement fishery facility' means any eligible fishery facility or qualified fishery facility which is subject to an agreement entered into under this section.

"(12) The term 'fishery facility' means—

"(A) for operations on land—

"(i) any structure or appurtenance thereto designed for the unloading and receiving from vessels, the processing, the holding pending processing, the distribution after processing, or the holding pending distribution, of fish from one or more fisheries,

"(ii) the land necessary for any such structure or appurtenance described in clause (i), and

"(iii) equipment which is for use in connection with any such structure or appurtenance and which is necessary for the performance of any function referred to in clause (i); or

"(B) for operations other than on land, any vessel that is used for, equipped to be used for, or of a type which is normally used for, the processing at sea of fish;

but only if such structure, appurtenance, land, and equipment or vessel is owned by an individual who is a citizen or national of the United States or by a corporation, partnership, association, or other entity that is a citizen of the United States within the meaning of section 2 of the Shipping Act, 1916 (46 U.S.C. 802), and for purposes of applying such section 2 with respect to this section—

"(i) the term 'State' as used therein includes any State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands of the United States, Guam, the Commonwealth of the Northern Marianas, or any other Commonwealth, territory, or possession of the United States; and "(ii) citizens of the United States must own not less than 75 percent of the interest in the entity and individuals who are nationals of the United States shall be treated as citizens of the United States in meeting such ownership requirement.

"(13) The terms 'fishing' and 'fishing vessel' have the meanings given such terms by paragraphs (10) and (11) of section 3 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1802).

"(14) The term 'fish' means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—(1)(A) Subparagraph (A) of section 607(b)(1) of such Act is amended by inserting "(i)" after "(A)", and by inserting ", or (ii) that portion of the taxable income of the owner or lessee for such year (as so computed) which is attributable to the operation of the agreement fishery facilities" after "the fisheries of the United States".

(B) Subparagraph (B) of such section 607(b)(1) is amended by inserting "or the agreement fishery facilities" after "the agreement vessels".

(C) Subparagraph (C) of such section 607(b)(1) is amended by inserting "or agreement fishery facility" after "any agreement vessel" each place it appears.

(D) Paragraph (2) of section 607(b) of such Act is amended by inserting "or an agreement fishery facility" after "an agreement vessel" and by inserting "or such facility (as the case may be)" after "such vessel".

(2)(A) Subparagraph (A) of section 607(f)(1) of such Act is amended by inserting "or a qualified fishery facility" after "a qualified vessel".

(B) Subparagraph (C) of section 607(f)(1) of such Act is amended to read as follows:

"(C) the payment of the principal on indebtedness incurred in connection with the acquisition, construction, or reconstruction of—

"(i) qualified vessel,

"(ii) a qualified fishery facility, or

"(iii) a barge or container which is part of the complement of the qualified vessel.".

(3)(A) Paragraphs (2) and (3) of section 607(g) of such Act is amended by inserting "fishery facility," after "vessel," each place it appears.

(B) Paragraph (4) of section 607(g) of such Act is amended by inserting "fishery facilities," after "vessels,".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1980.

Chapter 2—Amendments to Title XI

SEC. 211. GUARANTEE OF OBLIGATIONS FOR FISHING VESSELS AND FOR FISHERY FACILITIES.

Title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271–1280) is amended as follows:

(1) Section 1101 is amended by adding at the end thereof the following new subsection:

"(i) The term 'fishery facility' has the same meaning as is given such term in section 607(k)(12).".

(2) Section 1103(f) is amended by inserting immediately before the period the following: "; except that 5 percent of such sum shall be reserved for the guarantee of obligations for fishing vessels and fishery facilities that meet the economic soundness criteria set forth in section 1104(d)(1), and 5 percent of such sum shall be reserved for the guarantee of obligations for fishing vessels and fishery facilities that meet the economic soundness criteria set forth in section 1104(d)(2)".

(3) Section 1104 is amended—

(A) in subsection (a)—

(i) by striking out "(D) in the fishing trade or industry; or (E)" in paragraph (1) and inserting in lieu thereof "; or (D)";

(ii) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively, and by inserting immediately after paragraph (1) the following new paragraph:

"(2) financing, including reimbursement of an obligor for expenditures previously made for, construction, reconstruction, reconditioning, or purchase (regardless whether reconstruction or reconditioning is intended) of a vessel or vessels owned by citizens or nationals of the United States which are designed principally for research, or for commercial use in the fishing trade or industry;";

(iii) by striking out "or" at the end of paragraph (4) (as redesignated by clause (i));

(iv) by striking out "or (3)" in paragraph (5) (as so redesignated) and inserting in lieu thereof "(3), or (4)", and by striking out the period at the end thereof and inserting in lieu thereof "; or"; and

(iv) by adding immediately after paragraph (5) the following:

"(6) financing or refinancing, including, but not limited to, the reimbursement of obligors for expenditures previously made for, the construction, reconstruction, reconditioning, or purchase (regardless whether reconstruction or reconditioning is intended) of fishery facilities.

Any obligation guaranteed under paragraph (6) shall be treated, for purposes of this title, in the same manner and to the same extent as an obligation guaranteed under this title which aids in the construction, reconstruction, reconditioning, or purchase of a vessel; except with respect to provisions of this title that by their nature can only be applied to vessels.";

(B) in subsection (d)—

(i) by striking out "No" and inserting in lieu thereof "(1) Except as provided in paragraph (2), no"; and

(ii) by adding at the end thereof the following:

"(2) In applying paragraph (1) with respect to commitments to guarantee, and the guarantee of, obligations for fishing vessels and fishery facilities, the Secretary of Commerce may apply an economic soundness test that is less stringent than that which would apply but for this paragraph."; and

(C) in subsection (g)—

(i) by inserting "(1)" immediately after "(g)"; and

(ii) by adding at the end thereof the following new paragraph:

"(2) The Secretary of Commerce shall establish within the Fund the following subfunds:

"(A) The standard fishery subfund which shall contain all moneys received for, and incident to, the guarantee of obligations with respect to fishing vessels and fishery facilities to which the economic soundness criteria set forth in section 1104(d)(1) apply.

"(B) The high-risk fishery subfund which shall contain all moneys received for, and incident to, the guarantee of obligations with respect to fishing vessels and fishery facilities to which the economic soundness criteria set forth in section 1104(d)(2) apply.

"(C) The general subfund which shall contain all moneys received for, and incident to, the guarantee of obligations for vessels other than fishing vessels.".

(4) The first sentence of section 1105(d) is amended by inserting immediately before the period at the end thereof the following: ", and shall be paid from the appropriate subfund required to be established under section 1104(g)(2)".

SEC. 212. LOANS UNDER THE FISH AND WILDLIFE ACT OF 1956.

(a) Loan Authority Until October 1, 1982.—Notwithstanding any provision of section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c) or of any other law, during the period beginning on the date of the enactment of this Act and ending at the close of September 30, 1982, the Secretary of Commerce (hereinafter in this section referred to as the "Secretary") may make loans from the fisheries loan fund established under subsection (c) of such section 4 only for the purpose of assisting obligors to avoid default on obligations that are issued with respect to the construction, reconstruction, reconditioning or purchase of fishing vessels and that—

(1) are guaranteed by the United States under title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271–1280, relating to Federal ship mortgage insurance); or

(2) but only to the extent that moneys are available in the fisheries loan fund after loans are made with respect to obligations guaranteed under such title XI, are not guaranteed or assisted under any Federal program, and the fishing vessels concerned meet the use and documentation requirements, and the obligors meet the citizenship requirements, that would apply if the obligations were guaranteed under such title XI.

(b) TERMS AND CONDITIONS OF LOANS.—Each loan made by the Secretary under the authority of this section shall be subject to such terms and conditions as the Secretary deems necessary or appropriate to protect the interests of the United States and to carry out the purpose of this section. In establishing such terms and conditions, the Secretary shall take into account, among such other factors he deems pertinent, the extent to which the obligations concerned have been retired, and the overall financial condition of the obligors. The interest rate on loans made under the authority of this section shall not exceed that rate determined by the Secretary to be sufficent to cover the costs incurred in processing and servicing of such loans.

TITLE III—AMENDMENTS TO THE FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

CHAPTER 1—PHASE-OUT OF FOREIGN FISHING IN FISHERIES SUBJECT TO MANAGEMENT AUTHORITY OF THE UNITED STATES

SEC. 301. PHASE-OUT OF FOREIGN FISHING.

Section 201 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1821) is amended—

(1) by amending subsection (d) to read as follows:

"(d) TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING.—(1) As used in this subsection—

"(A) The term 'base harvest' means, with respect to any United States fishery, the aggregate harvest by all foreign nations in that fishery during the 1979 harvesting season.

"(B) The term 'harvesting season' means the period established under this Act by the Secretary during which foreign fishing is permitted within a United States fishery. For purposes of this subsection, a harvesting season is designated by the calendar year in which the last day of the harvesting season occurs, regardless whether fishing is not permitted on that day due to emergency or other closure of the fishery.

"(C) The term 'United States fishery' means a fishery subject to the exclusive fishery management authority of the United States.

"(2) Except as provided in paragraphs (3), (4), and (5), the total allowable level of foreign fishing, if any, with respect to any United States fishery for a harvesting season shall be that portion of the optimum yield of such fishery which will not be harvested by vessels of the United States, as determined in accordance with the provisions of this Act other than such paragraphs.

"(3) Except as provided in paragraph (5), for each of the harvesting seasons 1981, 1982, 1983, and 1984 the total allowable level of foreign fishing, if any, with respect to any United States fishery shall be the lesser of—

"(A) the total allowable level for that fishery for that season determined under paragraph (2); or

"(B) a level—

"(i) for the 1981 harvesting season, that does not exceed an amount equal to 90 percent of the base harvest for that fishery, "(ii) for the 1982 harvesting season, that does not exceed an amount equal to 75 percent of the base harvest for that fishery,

"(iii) for the 1983 harvesting season, that does not exceed an amount equal to 55 percent of the base harvest for that fishery, and

"(iv) for the 1984 harvesting season, that does not exceed an amount equal to 30 percent of the base harvest for that fishery.

"(4) Except as provided in paragraph (5), the total allowable level of foreign fishing that is permitted within any United States fishery during any harvesting season after the 1984 harvesting season is zero.

"(5)(A) If the Secretary determines, with respect to any United States fishery for any harvesting season after the 1980 harvesting season to which the allowable level of fishing determined under paragraph (2) does not apply, that the annual reduction of foreign fishing in that fishery provided for in paragraph (3)(B) or (4), as the case may be—

"(i) will, if implemented, result in a substantial surplus of fish stocks within the fishery; and

"(ii) that such surplus will not be harvested by vessels of the United States during such harvesting season;

the Secretary shall submit a written report to the Congress containing that determination and the factors on which the determination is based. Such report may also contain a recommendation by the Secretary that all or a portion of the reduction under paragraph (3)(B) or (4) that would, but for this paragraph, apply to such harvesting season be deferred and that any reduction (or portion thereof) deferred pursuant to this paragraph for earlier harvesting seasons in that fishery be continued during such harvesting season.

"(B) A recommendation by the Secretary that a reduction (or portion thereof) be deferred or continued under subparagraph (A) with respect to any harvesting season shall take effect if, and only if—

"(i) the report containing the recommendation is received by the Congress not later that 90 days before the opening day of the harvesting season with respect to which such deferral is recommended, and

"(ii) neither House of Congress adopts, within the 60-day period beginning on the day on which the report is received by Congress, a disapproval resolution provided for under paragraph (6).

"(C)(i) The total allowable level of foreign fishing in any United States fishery during any harvesting season after the 1980 harvesting season, as determined under paragraph (3)(B) or (4), that would apply but for the deferral of all or part of the reduction under this paragraph shall be increased by an amount equal to the amount so deferred.

"(ii) No part of any reduction provided for in paragraph (3)(B) or (4) in an allowable level of foreign fishing in any United States fishery that is implemented under this subsection for any harvesting season may thereafter be reinstated with respect to any subsequent harvesting season for that fishery.

"(6)(A) For purposes of paragraph (5), a disapproval resolution means only a resolution of either House of Congress the matter after the resolving clause of which is as follows: 'That the   disapproves the fishery reduction deferral recommended in the report of the Secretary of Commerce dated   .', the first blank space being filled in with the name of the resolving House and the second blank space being filled in with the date of the report concerned.

"(B) Copies of a report referred to in paragraph (5)(A) shall be submitted to both Houses of Congress on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session.

"(C) For purposes of computing the 60-day period referred to in paragraph (5)(B)(ii), there shall be excluded—

"(i) the days on which each House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

"(ii) any Saturday or Sunday, not excluded under clause (i), when either House is not in session.

"(D) All disapproval resolutions introduced in the House of Representatives shall be referred to the Committee on Merchant Marine and Fisheries and all disapproval resolutions introduced in the Senate shall be referred to the Committee on Commerce, Science, and Transportation.

"(E)(i) If the committee of either House to which a disapproval resolution has been referred has not reported it at the end of 30 days after its introduction, not counting any day which is excluded under subparagraph (C), it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other disapproval resolution introduced with respect to the same matter, except no motion to discharge shall be in order after the committee has reported a disapproval resolution with respect to the same matter.

"(ii) A motion to discharge under clause (i) may be made only by an individual favoring the disapproval resolution, and is highly privileged in the House and privileged in the

Senate; and debate thereon shall be limited to not more than 1 hour, the time to be divided in the House equally between those favoring and those opposing the resolution, and to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(F) The provisions of sections 203(d) (4) and (5) (relating to floor consideration of fishery agreement resolutions in the House and Senate) apply to disapproval resolutions."; and

(2) by amending subsection (e)—

(A) by striking out "and" at the end of subparagraph (C),

(B) by redesignating subparagraph (D) as subparagraph (E), and

(C) by inserting immediately after subparagraph (C) the following new subparagraph:

"(D) whether such nations impose tariff barriers or nontariff barriers on the importation of United States fish products; and".

SEC. 302. PERMIT FEES.

Section 204(b)(10) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1824(b)(10)) is amended—

(1) by inserting "(A)" after "(10)"; and

(2) by inserting at the end thereof the following:

"(B) In addition to any permit fee charged under subparagraph (A) or any other law, the owner or operator of a foreign fishing vessel for which a permit is issued under this subsection shall pay an additional fee equal to 10 percent of the ex vessel price of the catch harvested under the permit. Subject to appropriation Acts, amounts collected by the Secretary under the preceding sentence shall be transferred to the fund established under section 2 of the Act of August 11, 1939 (15 U.S.C. 713c–3) to be available to carry out the purposes of that fund; except that until October 1, 1982, and only to the extent needed, amounts so collected shall be transferred to the fisheries loan fund established under section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c)."

SEC. 303. EFFECTIVE DATE.

The amendments made by sections 301 and 302 shall apply with respect to the 1981 harvesting season and harvesting seasons thereafter (as defined in section 201(d)(1) of the Fishery Conservation and Management Act of 1976, as amended by section 301).

CHAPTER 2—FULL OBSERVER PROGRAM UNTIL FOREIGN FISHING PHASE-OUT COMPLETED

SEC. 311. ESTABLISHMENT OF FULL OBSERVER PROGRAM.

Section 201 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1821) is amended by adding at the end thereof the following new subsection:

"(i) OBSERVER PROGRAM.—(1) The Secretary shall establish a program under which a United States observer will be stationed aboard each foreign fishing vessel while that vessel is within the fishery conservation zone and is—

"(A) engaging in fishing;

"(B) accepting United States harvested fish through transfer at sea;

"(C) cruising to and from a location at which any such fishing or transfer will transpire; or

"(D) taking highly migratory species if such taking may result in the incidental taking of species over which the United States exercises fishery management authority.

"(2) United States observers, while aboard foreign fishing vessels, shall carry out such scientific and other functions as the Secretary deems necessary or appropriate to carry out the purposes of this Act.

"(3) In addition to any fee imposed under section 204(b)(10) of this Act and section 10(e) of the Fishermen's

Protective Act of 1967 (22 U.S.C. 1980(e)) with respect to foreign fishing for any year after 1980, the Secretary shall impose, with respect to each foreign fishing vessel for which a permit is issued under such section 204, a surcharge in an amount sufficient to cover all the costs of providing a United States observer aboard that vessel. The failure to pay any surcharge imposed under this paragraph shall be treated by the Secretary as a failure to pay the permit fee for such vessel under section 204(b)(10). All surcharges collected by the Secretary under this paragraph shall be deposited in the Foreign Fishing Observer Fund established by paragraph (4).

"(4) There is established in the Treasury of the United States the Foreign Fishing Observer Fund. The Fund shall be available to the Secretary as a revolving fund for the purpose of carrying out this subsection. The Fund shall consist of the surcharges deposited into it as required under paragraph (3). All payments made by the Secretary to carry out this subsection shall be paid from the Fund, only to the extent and in the amounts provided for in advance in appropriation Acts. Sums in the Fund which are not currently needed for the purposes of this subsection shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.".

SEC. 312. EFFECTIVE DATE.

The amendment made by section 311 shall take effect October 1, 1980, and shall apply with respect to permits issued under section 204 of the Fishery Conservation and Management Act of 1976 after December 31, 1980.

Department of Justice,
Washington, D.C., July 18, 1980.

Hon. Thomas L. Ashley,
Acting Chairman, Committee on Merchant Marine and Fisheries,
U.S. House of Representatives, Washington, D.C.

Dear Mr. Chairman: This presents the views of the Department of Justice on H.R. 7039, a bill to provide for comprehensive research and development regarding United States fisheries, to expand the fishing vessel and fish processing capacity of the United States, and for other purposes. This bill consists of four titles: Title I deals with research and development concerning American fisheries; Title II involves financial assistance regarding fishing vessels and fishery facilities; Title III amends the Fishery Conservation and Management Act of 1976; and Title IV consists of miscellaneous provisions. Our comments are limited to the provision in Title IV dealing with the Congressional review of rules.

Section 401 would provide that after the Secretary of Commerce promulgates a final rule pursuant to this bill, he shall submit the rule to Congress, where it shall be referred to the Senate Committee on Commerce, Science and Transportation and to the House Committee on Merchant Marine and Fisheries. The bill would provide that any such rule may become effective in accordance with its terms unless before the end of sixty days of continuous session of Congress after the rule is submitted to Congress, both House of Congress adopt a concurrent resolution disapproving the rule. Because a concurrent resolution is not submitted to the President for his approval or veto, the passage of such a resolution purporting to have the force and effect of law evades the President's veto power. This provision is that kind of "legislative veto" device that the President, in his message to Congress dated June 21, 1978, opposed on constitutional and policy grounds. The provision should be altered to provide for Congressional passsage of a joint resolution that would be submitted to the President for his approval or veto.

For your information, we attach a copy of the Attorney General's recent statement on the problems presented by legislative veto devices, a letter to the Secretary of Education dated June 5, 1980.

The Office of Management and Budget has advised that the submission of this report is consistent with the Administration's program

Sincerely,

Alan A. Parker,
Assistant Attorney General,
Office of Legislative Affairs.

Attachment.

Office of the Attorney General,
Washington, D.C. June 5, 1980.

Hon. Shirley M. Hufstedler,
Secretary, Department of Education,
Washington, D.C.

My Dear Madam Secretary: I am responding to your request for my opinion regarding the constitutionality of section 431 of the General Education Provisions Act (GEPA), 20 U.S.C. § 1232(d). That provision purports to authorize congress, by concurrent resolutions that are not to be submitted to the President for his approval or veto, to disapprove final regulations promulgated by you for education programs administered by the Department of Education. Acting under this authority, Congress has recently disapproved regulations concerning four programs of your Department.[1] For reasons set forth below, I believe that § 431 is unconstitutional and that you are entitled to implement the regulations in question in spite of Congress' disapproval.

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[1] H. Con. Res. 318, 96th Cong., 2d Sess. (1980), disapproves regulations issued under § 451 of the GEPA, 20 U.S.C. § 1234 pertaining to the operations of the Education Appeal Board. 45 Fed. Reg. 22634 (1980). H. Con. Res. 319 96th Cong., 2d Sess. (1980), disapproves regulations issued under § 322 of the Elementary and Secondary Education Act of 1965 [ESEA], 20 U.S.C. § 2962, pertaining to arts education. 45 Fed. Reg. 22742 (1980). H. Con. Res 332, 96th Cong., 2d Sess. (1980), disapproves regulations issued under § 346–48 of the ESEA, 20 U.S.C. §§ 3001–03, pertaining to law-related education. 45 Fed. Reg. 27880 (1980). S. Con. Res. 91, 96th Cong., 2d Sess. (1980), disapproves regulations issued under Title IV of th ESEA, 20 U.S.C. §§ 3081 *et sec.*, pertaining to grants to state and local education agencies for educational resources. 45 Fed. Reg. 23602 (1980). The statutory authority for issuance of these regulations was added to the GEPA or the ESEA by the Education Amendments of 1978, Pub. L. No. 95-561, 92 Stat. 2143.

I.

Under 20 U.S.C. § 1232(d), your Department is required, when it promulgates any final regulation for an "applicable program,"[2] to transmit that regulation to the Speaker of the House and to the President of the Senate. This section further provides:

"Such final regulation shall become effective not less than forty-five days after such transmission unless the Congress shall, by concurrent resolution, find that the final regulation is inconsistent with the Act from which it derives its authority, and disapprove such final regulation."

In short, the two Houses of Congress can, without Presidential participation, prevent the Executive from executing substantive law previously enacted by the Congress with respect to education programs. Moreover, § 1232(d), on its face, purports to delegate to the two Houses of Congress the constitutional function historically reserved to the courts to ensure that the execution of the law by the Executive is consistent with the statutory bounds established in the legislative process.

In designing a federal government of limited powers, the Framers of the Constitution were careful to assign the powers of government to three separate, but coordinate branches. They vested legislative power in the Congress, the power to execute the laws passed by the Congress in the Executive, and the power finally to say what the law is in the Judiciary. In ordering these relationships, the Framers were careful, in turn, to limit each branch in the exercise of its powers. The power of Congress to legislate was not left unrestrained, but was made subject to the President's veto. Neither was the President's power to execute the law left absolute, but Congress was empowered to constrain any executive action not committed by the Constitution exclusively to the Executive by passing legislation on that subject. Should such legislation be vetoed by the President, Congress could use its ultimate authority to override the President's veto. Both of the political branches were, in turn, to be checked by the courts' power to take jurisdiction to determine the existence of legislative authority for executive actions, and to review the acts of both Congress and the Executive for constitutionality. This, in simplest form, is our carefully balanced constitutional system.

The legislative veto mechanism in § 1232(d) upsets the careful balance devised by the Framers. Viewed as "legislative" acts, legislative vetoes authorize congressional action that has the effect of legislative vetoes authorize congressional action that has the effect of legislation but deny to the President the opportunity to exercise his veto power under Art. I, § 7 of the Constitution. Viewed as interpretive or executive acts, legislative vetoes give Congress an extra-legislative role in administering substantive statutory programs that impinges on the President's constitutional duty under Art. II, § 3, of the Constitution faithfully to execute the laws. Viewed as acts of quasi-judicial interpretation of existing law, legislative vetoes arrogate to the Congress power reserved in our constitutional system for the non-political Judicial Branch. Thus, however they may be characterized, legislative vetoes are unconstitutional.

A. The presentation clauses

As illustrated by the four recent exercises of legislative veto power under § 1232(d), legislative veto devices are functionally equivalent to legislation because they permit Congress, one of its Houses, or even, on occasion, one or two of its committees, to block the execution of the law by the Executive for any reason, or indeed, for no reason at all. Under § 1232(d), the two Houses of Congress could, by passing successive concurrent resolutions, bring to a halt substantive programs, the authority for which was enacted by prior Congresses with the participation of the President. Such legislative veto devices cannot stand in the face of the language and history of the Presentation Clauses, Art. I, § 7, cls. 2 and 3.

Clause 2 provides that every bill that passes the House and the Senate shall, before it becomes law, be presented to the President for his approval or disapproval.[3] If disapproved, a bill does not become law unless repassed by a two-thirds vote of each House.

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[2] Under the GEPA, an "applicable program" is "any program for which an administrative head of an education agency has administrative responsibility as provided by law or by delegation or authority pursuant to law." 20 U.S.C. § 1221(b) and (c)(1)(A). Two Department regulations recently disapproved by Congress were promulgated originally by the Commissioner of Education, under the former Department of Health, Education, and Welfare. The Commissioner's functions, however, were transferred to you under the Department of Education Organization Act, § 301(a)(1), Pub L. 96-88, 93 Stat. 677 (1979). All four programs involved are now administered under your authority.

At the Philadelphia Convention of 1787, the Framers considered and explicitly provided for the possibility that Congress, by passing "resolutions" rather than bills, might attempt to evade the requirement that proposed legislation be presented to the President. During the debate on Art. I, § 7, James Madison observed:

"If the negative of the President was confined to bills; it would be evaded by acts under the form and name of Resolutions, votes &c—[and he] proposed that 'or resolve' should be added after 'bill' . . ., with an exception as to votes of adjournment &c." 2 M. Farrand, "Records of the Federal Convention of 1787" 301 (rev. ed. 1937).

Madison's notes indicate that "after a short and rather confused conversation on this subject," his proposal was at first rejected. However, at the commencement of the following day's session, Mr. Randolph, "having thrown into a new form" Madison's proposal, renewed it. It passed by vote of 9-1. Id., 301–35. Thus, the Constitution today provides, in addition to Clause 2 of § 7 dealing with the passage of "bills," an entirely separate clause, Art. I, § 7, cl. 3, as follows:

"Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill."

I believe it is manifest, from the wording of Clause 3 and the history of its inclusion in the Constitution as a separate clause apart from the clause dealing with "bills," that its purpose is to protect against all congressional attempts to evade the President's veto power.[4] The function of the Congress in our constitutional system is to enact laws, and all final congressional action of public effect, whether or not it is formally referred to as a bill, resolution, order or vote, must follow the procedures prescribed in Art. I, § 7, including presentation to the President for his approval or veto.

B. The separation of powers

(1) *Executing the Law.*—The principle of separation of powers underlying the structure of our constitutuional form of government generally provides for the separation of powers among the Legislative, Executive, and Judicial Branches, and provides for "checks and balances" to maintain the integrity of each of the three branches' functions. Generally speaking, the separation of powers provides that each of the three branches must restrict itself to its allocated sphere of activity: legislating, executing the law, or interpreting the law with finality. This is not to say that every governmental function is inherently and of its very nature either legislative, executive, or judicial. Some activity might be performed by any of the three branches—and in that situation it is up to Congress to allocate the responsibility. See, *e.g.*, *Wayman* v. *Southard*, 10 Wheat. 1, 42–43, 46 (1825) (Chief Justice Marshall). Once Congress, by passing a law, has performed that function of allocating responsibility, however, the separation of powers requires that Congress cannot control the discharge of those functions assigned to the Executive or the Judiciary, except through the plenary legislative process of amendment and repeal.

The underlying reason, well stated by James Madison is that otherwise the concentration of executive and legislative power in the hands of one branch might "justly be pronounced the very definition of tyranny." The Federalist, No. 47, at 324 (Cooke ed. 1961). The shifting of executive power to the Legislative Branch which would be occasioned by these legislative veto devices is, I believe, undeniable; the concentration of this blended power is precisely what the Framers feared and what they set about to prevent.

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[3] Clause 2 provides, in pertinent part: "Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approves he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law."

[4] The President was given his veto power, in part, in order that he might resist any encroachment on the integrity of the Executive Branch. *See The Federalist*, No. 48. His participation in the approval of legislation is also crucial because of his unique constitutional status as representative of all the people. As Chief Justice Taft stated in 1926: "The President is a representative of the people just as the members of the Senate and of the House are, and it may be, at some times, on some subjects, that the President elected by all the people is rather more representative of them all than the members of either body of the Legislature * * * " *Myers* v. *United States*, 272 U.S. 52, 123 (1926).

The Constitution's overall allocations of power may not be altered under the guise of an assertion by the Congress of its power to pass laws that are "necessary and proper for carrying into Execution . . . Powers vested by [the] Constitution in the Government of the United States, or in any Department or Officer thereof," Art. I, § 8, cl. 18.[5] As the Supreme Court made clear in *Buckley* v. *Valeo,* 424 U.S. 1 (1976), the exercise of power by Congress pursuant to the Necessary and Proper Clause is limited both by other express provisions of the Constitution and by the principles of separation of powers.

In *Buckley,* it was argued that officers of the Congress could, under the Necessary and Proper Clause, appoint commissioners of the Federal Election Commission, notwithstanding the fact that Art. II, § 2, cl. 2 of the Constitution placed the appointment power in the President. With regard to the relationship between the exercise of power under the Necessary and Proper Clause and other provisions of the Constitution, the Court stated the rule as follows:

"Congress could not, merely because it concluded that such a measure was "necessary and proper" to the discharge of its substantive legislative authority, pass a bill of attainder or ex post facto law contrary to the prohibitions contained in section 9 of Art. I. No more may it vest in itself, or in its officers, the authority to appoint officers of the United States when the Appointments Clause by clear implication prohibits it from doing so. 424 U.S. at 135.

The Constitution establishes the President's veto power as clearly as it establishes the appointment power or prohibits bills of attainder and *ex post facto* laws. Under *Buckley,* the only reasonable implication of the Framers' inclusion of Art. I, § 7, cl. 3, in the Constitution is that the Necessary and Proper Clause is not a source of power for evasion of these specific limitations through the enactment of legislative veto devices. I would add that, in reaching its holding in *Buckley,* the Court considered and relied upon earlier cases that seem most relevant to the constitutionality of legislative veto devices. In quoting from *Myers* v. *United States,* 272 U.S. 52 (1926), the Court recognized the relationship between the grant of executive power to the President and the issue before it. 424 U.S. at 135-136.[6] I believe that *Buckley* and the cases relied on by the *Buckley* Court foreclose arguments that the Necessary and Proper Clause grants Congress the power to provide for legislative veto devices.

Because to characterize the power exercised by the two Houses under § 1232(d) as "legislation" would necessarily require Congress to respect the President's veto power by presenting its resolutions for his approval, it is necessary for proponents of such power to deny that the power is "legislation" in the constitutional sense. They argue instead that the device is a means for Congress to oversee the execution of the law by the Executive, in aid of its undoubted constitutional powers to pass legislation and appropriations. Such an argument, however, cannot withstand scrutiny. Without a legislative veto, the regulations of your Department, unless invalidated by a court, would have the force of law. In depriving them of that force, the necessary effect of a legislative veto is to block further execution of a statutory program until the Executive promulgates further regulations in compliance with the current views of a Congress that may well be different from the Congress that enacted the substantive law.[7] The difference between this kind of congressional

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[5] It is fundamental to our concept of limited federal government that power exercised by the Legislative, Executive and Judicial Branches be traced to a provision of the Constitution or to a statute which is expressly or impliedly authorized by a provision of the Constitution. Thus, a source of authority for Congress to exercise power under legislative veto devices must be found in the Constitution in order for that authority to be recognized as legitimate. As we demonstrate below, the Necessary and Proper Clause does not grant such authority; nor does any other provision of the Constitution.

[6] The Court went on, in holding the appointment of Federal Election Commission members by officers of Congress to be unconstitutional, to quote the following language from its earlier decision in *Springer* v. *Philippine Islands,* 227 U.S. 189, 202 (1928): "Legislative power, as distinguished from executive power, is the authority to make laws, but not to enforce them or appoint the agents charged with the duty of such enforcement. The latter are executive functions. It is unnecessary to enlarge further upon the general subject, since it has so recently received the full consideration of this court." *Myers* v. *United States,* * * *

Not having the power of appointment, unless expressly granted or incidental to its powers, the legislature cannot engraft executive duties upon a legislative office, since that would be to usurp the power of appointment by indirection, though the case might be different if the additional duties were devolved upon an appointee of the Executive.

[7] In such a situation, the Executive, as a practical matter, may be giving up a measure of authority granted by the statute being administered which the courts in an appropriate case would have found to have been delegated to the Executive, if Congress had not intervened. Such a diminution of authority must, in my view, be viewed analytically as a repeal of the substantive statute to that extent.

"oversight" and the legitimate oversight powers of Congress in their effect on the constitutional allocation of powers could not be more profound. By its nature, for example, the exercise of a legislative veto would be beyond judicial review because the exercise of such powers could be held to no enforceable standards. In exercising its veto, I believe it clear that Congress is dictating its interpretation of the permissible bounds for execution of an existing law; a result that can be accomplished only by legislation.

The foregoing discussion demonstrates the flaw in the argument, occasionally made, that the doctrine of separation of powers protects the Executive Branch only in areas that are inherently executive, and that Congress may reserve to itself control over activities entrusted to the Executive which are not "truly" executive in nature. This reasoning overlooks the basic truth that there are few activities that are clearly executive, legislative, or judicial. The first two categories, in particular, overlap to an enormous extent. Much, if not indeed most, executive action can be the subject of legislative prescription. To contend, therefore, that Congress can control the Executive whenever the Executive is performing a function that Congress might have undertaken itself is to reduce the doctrine of separation of powers to a mere shadow.

The test is not whether an activity is inherently legislative or executive but whether the activity has been committed to the Executive by the Constitution and applicable statutes. In other words, the Constitution provides for a broad sweep of possible congressional action; but once a function has been delegated to the Executive Branch, it must be performed there, and cannot be subjected to continuing congressional control except through the constitutional process of enacting new legislation.

Proponents of the legislative veto, however, argue that such devices actually fortify the separation of powers by providing Congress with a check on an agency's exercise of delegated power. No doubt congressional review provides a check on agency action, just as committee review or committee chairman review would provide a check. But such review involves the imposition on the Executive of a particular interpretation of the law—the interpretation of the Congress, or one House, or one committee, or one chairman—without the check of the legislative process which includes the President's veto. In that case Congress is either usurping the power of the President to execute the law, or of the courts to construe it; or Congress is legislating. If it is legislating, the Constitution is explicit that the President must have the opportunity to participate in that process by vetoing the legislation.

II.

Because it is my opinion that § 1232(d) is unconstitutional, it is necessary for me to consider whether that provision is severable from the underlying grants of statutory authority upon which the regulations promulgated by you were based. Section 1232(d) was enacted in 1974. When the various authorities for the four regulations disapproved by Congress were enacted in the Education Amendments of 1978, Congress gave no indication that the substantive rulemaking powers delegated to you were to be extinguished if the legislative veto device in § 431 were to be found unconstitutional. Thus, I conclude that § 431 is severable from this basic grant of substantive power. *See, e.g., Champlin Refining Co.* v. *Corporation Commission of Oklahoma,* 286 U.S. 210, 234 (1932), quoted with approval in *Buckley* v. *Valeo, supra,* 424 U.S. at 108.

III.

Within their respective spheres of action the three branches of Government can and do exercise judgment with respect to constitutional questions, and the Judicial Branch is ordinarily in a position to protect both the Government and the citizenry from unconstitutional action, legislative or executive; but only the Executive Branch can execute the statutes of the United States. For that reason alone, the Attorney General must scrutinize with caution any claim that he or any other executive officer may decline to defend or enforce a statute whose constitutionality is merely in doubt. Any claim by the Executive to a power of nullification, even a qualified power, can jeopardize the equilibrium established by our constitutional system.

At the same time, the Executive's duty faithfully to execute the law embraces a duty to enforce the fundamental law set forth in the Constitution as well as a duty to enforce the law founded in the Acts of Congress, and cases arise in which the duty to the one precludes the duty to the other. In rendering this opinion on the constitutionality of § 431, I have determined that the present case is such a case.

Section 431 intrudes upon the constitutional prerogatives of the Executive. To regard these concurrent resolutions as legally binding would impair the Executive's constitutional role and might well foreclose effective judicial challenge to their constitutionality.[9] More important, I believe that your recognition of these concurrent resolutions as legally binding would constitute an abdication of the responsibility of the Executive Branch, as an equal and coordinate branch of Government with the Legislative Branch, to preserve the integrity of its functions against constitutional encroachment. I, therefore, conclude that you are authorized to implement these regulations.

Sincerely,

Benjamin R. Civiletti,
Attorney General.

Department of State,
Washington, D.C.

Hon. **John M. Murphy,**
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives,
Washington, D.C.

Dear Mr. Chairman: I have been asked to reply to your letter of April 22 addressed to Secretary Vance inviting the Department to submit views on H.R. 7039, the "American Fisheries Promotion Act".

On May 6, 1980, Assistant Secretary Thomas R. Pickering of the Department's Bureau of Oceans and International Environmental and Scientific Affairs, appeared before the Fisheries and Wildlife Subcommittee to testify on this bill. Written copies of his testimony have been provided to the Subcommittee.

The Department's views and comments on this bill have therefore already been provided.

Sincerely,

J. Brian Atwood,
Assistant Secretary
for Congressional Relations.

Mr. **Breaux.** Thank you.

I would like to welcome at this time our first witness, already at the table, our good friend and colleague from the State of Oregon, who has been very helpful and very cooperative with this committee in expressing his views on fishing problems and the industry in general and what we need to do to revitalize it, our colleague, Jim Weaver.

Jim, we are pleased to have you with us this morning and to receive your testimony.

STATEMENT OF HON. JAMES WEAVER, CONGRESSMAN FROM THE STATE OF OREGON

Mr. **Weaver.** Thank you, Mr. Chairman. I want to congratulate you whole-heartedly, you and Mr. Forsythe and others, for this bill. I am thrilled by it, and my fishermen are thrilled by it, and I am here to testify in favor of H.R. 7039, and of course, I am a cosponsor.

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[9] The history of so-called "legislative veto" devices, of which § 431 of the GEPA is one, illustrates the difficulty in achieving judicial resolution of such an issue. Although Congress enacted the first such mechanism in 1932, only a few reported cases have potentially involved the constitutional question inherent in the legislative veto, and a court has reached the issue only once. In *Atkins* v. *United States*, 556 F.2d 1028 (Ct. Cl. 1967), cert. denied, 434 U.S. 1009 (1978), the Court of Claims held, four-to-three, that the provision of the Federal Salary Act of 1967, 2 U.S.C. § 359(1)(B), which permits one House of Congress to disapprove the President's proposed pay schedule under the Act, is not unconstitutional, and that the Senate's veto of a proposed judicial salary increase was therefore lawful. This Department, representing the United States, argued that the veto was unconstitutional, but that, because the veto authority was not severable from the remainder of the Salary Act, the plaintiffs had no right to additional pay. The latter view was sustained in *McCorkle* v. *United States*, 559 F.2d 1258 (4th Cir. 1977), cert. denied, 434 U.S. 1011 (1978).

Other cases in which the validity of a legislative veto device has been argued include *Chadha* v. *Immigration and Naturalization Service*, No. 77, 1702 (9th Cir., argued April 10, 1978); and *Clark* v. *Valeo*, 559 F.2d 642 (D.C. Cir, aff'd, 431 U.S. 950 (1977) (issue not ripe for determination).

I represent the southwest Oregon coast and the fishing industry is critical, particularly now, when the wood products industry is in deep, deep slump. Therefore, we must do all we can to revitalize our fisheries.

We desperately need a vigorous and growing fishing industry that includes a well-developed harvesting and processing capacity, so we can take full advantage of the tremendous economic potential that lies just offshore.

All of the fisheries development bills recognize that we have serious problems with our domestic fishing industry. I believe your bill, Mr. Chairman, makes the greatest effort to solve them. The industry needs capital available and low rates and over long terms. The lack of this necessary capital results in shortages of efficient vessels designed to take full advantage of all species within the 200-mile limit, and also a shortage of both shore-based and floating processing facilities.

The changes in the uses of the Capital Construction Fund help provide a solution to this problem. I especially endorse the requirement that 75 percent of the ownership of processing vessels or facilities be American.

Our fishermen desperately need the support offered by this bill. On the west coast, the catching of underutilized species is dominated by the foreign fleets.

We have an abundance of salmon fishermen contending for a limited salmon resource. The salmon runs are under tremendous pressure from sport, commercial, and Indian fishermen, from hydroelectric power generation, irrigation, municipal, and industrial water withdrawals, and timber harvest practices. Our fishermen simply must expand into the underutilized species.

The fisherman himself is our greatest resource. He is committed to making his living from the sea and has the experience to do so. If he can be given the opportunity and the incentive to move into the harvesting of underutilized species and be convinced he has a fair chance of success, he will do it. But with foreign fleets dominant offshore and with limited processing facilities available, and the substantial economic risk involved, there has been little incentive.

I am not sure that the Congress realizes the depth of resentment of foreign fleets that exists among Oregon fishermen. These people feel betrayed. They vigorously supported the Fisheries Conservation and Management Act's 200-mile limit, because they thought that foreign competition for our fish would be eliminated.

They are embittered that the foreign fleets are still here and are successful, and that American fishermen are having difficulty just surviving. And while they are not supposed to be taking salmon, we all know better. They are convinced that the National Marine Fisheries Service, and the State Department, and Congress are more concerned with catering to foreign needs than with providing the necessary support and opportunities for American fishermen to make a decent living harvesting what should be an American resource.

As an aside, Mr Chairman, this country can no longer afford the largesse of selling our grain at less than it costs us to produce, of exporting our logs to countries when our mills close for lack of timber, and allowing foreigners to come in and take our fish, vacuum up our coasts, when our own American fishermen go out of business. These kinds of policies must stop, and your bill goes a long way toward doing that in the fish area.

I have introduced a bill that would simply stop foreign fishing within 40 miles offshore. The satisfaction of the serious concerns of fishermen in my district, as well as those from other areas along the west coast, was the primary reason for the introduction of my 40-mile bill.

On the west coast, most of the fisheries resources in which my fishermen are interested are concentrated within 40 miles of shore. My bill would have allowed foreign fishing to continue beyond that point. But as our fishermen attain more success and economic strength by having total access to the fish within the exclusively American zone, it was anticipated they would be able to compete more effectively in the rest of the 200-mile limit.

The section in H.R. 7039 that calls for the phased reduction of foreign fishing within the 200-mile limit is quite compatible with my intentions when I introduced my own bill. While my bill offers more immediate relief from foreign competition in our best fishing grounds, I would strongly support a phased reduction as an integral part of any effort to fully develop this resource.

Many of my fishermen suggest a schedule a little more faster and restrictive than is in the bill: in 1981, 75 percent of base harvest; in 1982, 50 percent; in 1983, 25; and 1984, zero.

I also am concerned that it might be difficult to get even a one-House veto on Secretarial action when concern might be concentrated only among coastal Members. Fishermen feel that broader balance-of-trade situations, or other foreign policy considerations, could prevent a veto and jeopardize the interests of American fishermen once again.

Another part of your bill, Mr. Chairman, that should gain broad support is the provision to require American observers on every foreign fishing vessel operating within the 200-mile limit and run them on a 24-hour basis. This is an element of my bill, also.

This provision is absolutely essential if we are to reduce incidental catches of prohibited species, and insure accurate reporting of all foreign catches. It justifiably should be funded by foreign fleet fishing fees.

I also strongly want to support the bill's provision to include the consideration of trade barriers as an element of surplus fish allocation decisions. It makes no sense to allow trade barriers to restrict our markets and then reward the country setting up these barriers with a surplus fish allocation. This is especially so if we are committed to increasing our investments in the development of American harvesting and processing capacity.

I have one further comment, Mr. Chairman. Amendments to the Fishermen's Protective Act of 1967 allow U.S. fishermen fishing within the 200-mile limit to receive compensation if their vessels or gear are damaged or destroyed by foreign or domestic fleets or by acts of God.

As you know, the implementation of this law has not been without problems. There are only two National Marine Fisheries staff to develop regulations pursuant to the law, design the necessary compensation forms, receive and evaluate claims and make the appropriate payments.

The claim application forms were not available last season, and fishermen were not well informed of the program's existence nor instructed on how to take advantage of it. As a result, many legitimate claims were filed too late, or not filed at all.

To have a claim considered for compensation, the fishermen must file it within 60 days of noticing the damage or loss. Given a smoothly running program and fishermen awareness, 60 days is sufficient time. However, because of the problems with this new program cited above, many Oregon fishermen were not able to use it.

Senator Packwood adequately addressed this problem in his amendment to S. 1656, the National Fishery Development Act. His amendment would waive the 60-day requirement for claims on damages suffered last season, and would be an exception made only for damages suffered in that season. Damages suffered in 1980 would be subject to the 60-day reporting requirement. I am prepared to introduce such a technical amendment to the Fishermen's Protective Act to be a companion to Senator Packwood's amendment. However, I would be quite willing to offer this as an amendment to your bill, or hope that the committee would incorporate it into the bill.

I am aware that my concern about this issue may be resolved by some other legislative action. But if it is not, the fishermen in my district would greatly appreciate its addition as an amendment to H.R. 7039. I attach a copy of the proposed bill to my testimony.

I strongly feel that the tying together of the phaseout of foreign fishing with our increased capacity to process and harvest is compatible with the spirit of the Fisheries Conservation and Management Act. That Congress should take strong action to support and expand our fishing industry and move to eliminate foreign domination of our fish resources—which is unconscionable that our own coast should be dominated by the fishing fleets of foreign nations—at the same time is a demonstration of its responsiveness to the popular will.

Aside from the concerns I have expressed here, I am extremely pleased with the shape of this legislation and commend the sponsors on its introduction.

Thank you, Mr. Chairman, for the privilege of testifying on this bill.

Mr. **Breaux**. Thank you very much, Jim, for your excellent testimony.

How extensive is the foreign investment in your area that you represent in the Congress, or in Oregon in general? The committee is aware of the impending bankruptcy of the New England Fish Co., which was the largest processor up there, and most of their debt guaranteed financing, I understand, was by Japanese corporations.

Mr. **Weaver**. Well, the processing plant you are talking about is in Newport, which is just north of my district a few miles. However, up and down the coast, the inability to get capital and the hundreds of foreign ships off our coast, draining the fish, doing their own processing, obviously is always going to seriously undermine any efforts of our setting up a viable processing industry on our shore, and is going to lead to such bankruptcies. I am sure high interest rates had something to do with that bankruptcy, but nevertheless, the undermining of our processing industry and our own fishermen is going to continue as long as they must compete unfairly with a huge mass of foreign fleets.

Mr. **Breaux**. They are turning to foreign sources of capital; why, because it is available on better terms, or that, in fact, it is just available, and it is not available here in the United States?

Mr. **Weaver**. I am absolutely perplexed. The west coast is turning into a colony of Japan in many ways. They are buying our lumber mills, buying our timber; they are buying our fish. One of the reasons was our enormous balance-of-trade deficit with Japan, of course, where they had $26 billion American and did not know what to do with them, and they used those to come in and put back into the United States. This simply has to stop.

I do not know why capital is not flowing into these areas. It is a puzzle to me. But believe me, for the sake of this country, and I mean this, we can no longer afford to have this enormous drain from our industrial economy.

Mr. **Breaux**. How dependent is your area on the Japanese as a market outlet for your fish products, and do your fishermen ever complain, as they do to the committee, about the manipulation of the market by the Japanese?

Mr. **Weaver**. Well, certainly. Of course, you know, they were induced to go into the black cod business, and then that market was undermined for them, and there is a great deal of problem here.

I mean, in my estimation, anyway, it is a one-way street. Japan has high barriers for trading with them and can come into our markets at any time with complete ease. How much longer can we afford this?

Mr. **Breaux**. Thank you, Jim.

Mr. Forsythe?

Mr. **Forsythe**. Thank you, Mr. Chairman.

Thank you, Jim. Isn't one of the bottom lines the problem of foreign trade barriers that have blocked the sale of our fish in Japanese and other markets. One of the real keys of this bill is the linking of access to those foreign markets to the allocations for foreign licenses.

Mr. **Weaver**. Mr. Forsythe, let me tell you, the parallels in so many other areas are great. For instance, we export 3.5 billion board-feet of our prime timber to the Japanese, and if we stopped exporting that timber, they would have to buy our finished products, made with American capital and American labor—the same thing applies with fish. They are going to have to open their markets. If we say, "Hey, you cannot come in and vacuum our fish up anymore," then we will be selling to them, and those trade barriers are going to come down because they are going to need our fish.

Mr. **Forsythe**. What you are saying is that we must be able to finance our industry in a way that they can then have the capital to do the job.

Mr. **Weaver**. Exactly.

Mr. **Forsythe**. Thank you very much.

Mr. **Weaver**. Thank you very much.

Mr. **Breaux**. Mr. Bonker.

Mr. **Bonker**. Thank you, Mr. Chairman. I would like to begin by commending you for introducing this legislation and scheduling hearings. You are most sensitive to the growing needs of the fishing industry and we in the Northwest appreciate very much the work that you are doing in this respect.

I would also like to commend my fellow Northwesterner. As colleagues, we face similar problems that will require national legislation if we are going to protect not only the indigenous resources of the Northwest, but also the use of those resources to sustain the traditional economy of that area.

Jim Weaver has referred to the problems with logs and has drawn the parallel with fish. We see occurring in the Northwest a transition from the traditional way of utilizing these resources to new and troubling threats upon those resources. In both cases, they involve what appears to be a depletion of resources and an exploitation of that resource by other countries.

So, whether we talk about logs and whether or not we should process those logs before we export, or we talk about the fishery resource and trying to gain the full range of economic benefits of that resource, we need to have more direction and more support from the Federal Government if we are going to continue to use those resources in a way that will benefit our economy.

I think Congressman Weaver is familiar with an announcement that occurred over the weekend, that one of the largest seafood firms on the west coast, New England Fish Co., went bankrupt. This comes as sad news to those of us who have been interested in this subject, because this fish company is one of the most progressive and offered the greatest promise in our efforts to exploit this whole new resource that comes as a result of extending our fishery jurisdiction 200 miles.

I think legislation like this is necessary if we are going to protect those industries in the future. It seems as if the industries, both in wood products and fisheries, that in the past have been involved with the resource, can no longer survive in that field. We have the Japanese coming in and buying up the mills and the fish processing plants. At some point, we are going to lose our control over our own economic destiny.

So I appreciate, Congressman Weaver, your testimony and your commitment in this area. What we do need, though, is a consensus among the various segments of the industry, those that represent processors and harvesters and everyone who gets involved in working with this resource. If we do not have that consensus, it is going to be extremely difficult to pass any bill out of this committee.

I do think that any bill that we consider should involve marketing techniques, capital investment, and loan guarantees, to help us utilize these new species.

Representative Weaver, I apologize for this little speech, but it is my opening comments. I would like to ask you about the acquisition of capital, which seems to be a primary problem in the Northwest. From your comments, the foreign investments represent something of a threat in your district. Do you feel legislation of this sort would give us protection, or do you think the foreign acquisitions are going to continue, regardless of what we do here in the Congress?

Mr. **Weaver**. No. I think that this legislation is a major step toward setting America first and using our own resources at home and would act as a preventive for domination by foreign capital.

There may be other things that the gentleman from Washington—whose leadership in this area has been tremendous—would like to explore, and I would always be open for additional things, but this would be a major step.

Mr. **Bonker**. Well, it seems to me that we are allowing foreign vessels to continue through a permit process to fish within our 200-mile zone. The idea is that over a period of time, our own domestic fishermen and processors would gear up and more effectively compete for that resource, at which time we can phase out foreign fishing. But if we have only a few who are involved in this venture, and the few larger ones are starting to go bankrupt, then we are not going to reach a point where we will effectively compete for that resource. So the foreign fishing fleets will continue to have access to our resource—which makes a mockery of the 200-mile bill. If we are going to bail out Chrysler—and I see the auto industry is in town today, lobbying on the Senate side—it seems incomprehensible to me that we cannot recognize and fully support the valuable fishing industry that could indeed help with our balance-of-trade deficit.

Mr. **Weaver**. I agree completely.

Mr. **Bonker**. I want to thank Representative Weaver again for his testimony.

Mr. **Weaver**. Mr. Chairman, I have my own hearing next door that I had better get on to. If I could be excused, I would appreciate it.

Mr. **Breaux**. If there are no other questions, Jim, we appreciate it, and thank you very much I know you have to get to the hearing. Thank you again for your testimony.

Mr. **Weaver**. Thank you again, Mr. Chairman.

Mr. **Breaux**. Next, the subcommittee would like to welcome Richard Frank, the Administrator of NOAA. Dick, we appreciate your being with us. We also welcome any colleagues you have who would like to accompany you to the witness table.

STATEMENT OF HON. RICHARD FRANK, ADMINISTRATOR, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE, ACCOMPANIED BY TERRY LEITZELL, ASSISTANT ADMINISTRATOR FOR FISHERIES

Mr. **Frank**. Thank you, Mr. Breaux.

I have with me Terry Leitzell, the Assistant Administrator for Fisheries of NOAA.

I welcome the opportunity to appear before you today to present the administration's views on H.R. 7039. This administration is committed to expanding the domestic capacity to harvest the fishery resources found off our shores, to improving our balance of trade in fishery products, to maintaining the economically viable sectors of the fishing industry in sound economic health, and to promoting the well-being of our Nation's people by fostering increased consumption of safe, wholesome fish products.

The administration has been actively pursuing these goals through the programs of NOAA and those of other agencies and by sponsoring our own fisheries development legislation.

In my testimony today, I will first address NOAA's fishery development efforts and then comment in detail on H.R. 7039.

We support most of the objectives of H.R. 7039. However, we do not support the bill. We believe that the administration's bill, H.R. 6311, has the emphasis, focus, and flexibility for the development of fisheries resources and is consistent with the administration's and Congress desire to restrain Federal budget and credit risk growth.

Since the passage of the FCMA, it has become apparent that neither this nor other legislation offered specific guidance needed for the effective development and full utilization of our fisheries. Recognizing this, the Department of Commerce in 1978 established a task force to define an appropriate fishery development policy. As a result of the task force efforts, the administration on May 23, 1979, committed itself in a policy statement to provide resources for the accelerated development of U.S. fisheries, especially new or nontraditional fisheries, and as one step toward implementation of that policy, the administration has since sent to Congress legislation calculated to achieve these ends.

Since May 1979, NOAA has proceeded to implement the policy. On November 15, 1979, under newly established funding guidelines, we formally solicited proposals for fisheries development initiatives. In response to our solicitation, we have had an overwhelming number of proposals. In all, 380 proposals have been submitted, requesting a total of $68 million.

That industry has embraced our goals and is ready to finance a major share of the research and development costs is evident in its response to the cost-sharing provisions of our solicitation. Almost all of the proposed industry contributions have exceeded the minimum 20 percent which was required, and in some cases have exceeded 50 percent of the total project cost.

The cornerstone of our fishery development efforts conducted jointly with industry has been the Saltonstall/Kennedy Act funding. A number of industry groups which are mentioned in my written testimony have received S-K funds in fiscal year 1979.

Rapidly changing economic conditions are having serious impacts on the operations of the fishing industry now. In the past year, prices that fishermen pay for fuel have more than doubled, and further increases are forecast for the future. At the same time, as in other food industries, we are seeing some softening of selected fish markets as consumers, hardpressed by inflation, become wary of the higher product prices resulting from soaring productions costs. Record interest rates, one factor in these production costs, appear to be creating, as with many other business sectors, economic hardships for parts of our fishing industry.

Although the magnitude of such economic problems is far from clear, NOAA has taken initial steps to determine the nature and extent of the problem and consider any appropriate Federal response. At my request, Assistant Administrator for Fisheries Leitzell has established a task force within NOAA to conduct an analysis of the economic conditions in the industry, assess current economic problems, and suggest what ought to be done about them. I expect that the task force will complete its initial work and report to me by the end of this month.

We have already decided to increase emphasis in our programs on support of projects designed to increase the efficiency and productivity of various aspects of the fishing industry. We have commissioned a study by the Society of Naval Architects and Marine Engineers of energy conservation methods and technology currently available to the fishing industry or offering potential future benefits. We also will be seeking proposals with particular emphasis on energy-saving research and development.

The fishing industry is entering a period of uncertainty in the face of changing economic conditions and Federal budgetary austerity. We are taking steps to respond to this uncertainty and, in partnership with industry, will strive to provide the resources and the solutions which will be needed in the months ahead.

I would like now to comment specifically on certain major provisions of H.R. 7039 which are of special concern to NOAA. This bill contains certain provisions which the administration cannot support at this time.

Section 101(a) of H.R. 7039 would, among other things, require that 75 percent of S-K moneys be dedicated to non-Federal fishery development projects, leaving the balance of 25 percent to be expended by the Government. Additionally, section 101(a) would require the Federal share of these projects to be not less than 50 percent nor more than 75 percent of the estimated cost of the project.

We do not think that it is prudent to specify by statute the allocation of S-K funds and the Government/industry cost-sharing allocation. There are two principal reasons for this view.

First, we believe that as a rule, industry should be expected to contribute its fair share toward any project of which industry is a direct beneficiary, and this may result in an industry contribution of greater than 50 percent. In sum, we want flexibility to apply a greater-than-50-percent rule.

Second, the proposed provisions would unduly limit our flexibility to administer the S-K program through the appropriate mix of Federal/private sector activities. Some activities are better done or will only be done by the Government itself. Other activities are better done by industry. We do not believe that we can tell you which is which now, because we do not know what kinds of activities over the long haul will be needed. We can suggest that we be given flexibility in this area.

Section 101(a) of the bill would also require that all S-K moneys be utilized for special projects. NOAA continues to believe that S-K funds may appropriately be used in some part to support our basic programs in fishery research and development. Utilization of S-K moneys for such purposes would allow all such funds to be targeted toward fishery development activities in accord with administration policy, and would increase our flexibility in conducting an effective fisheries development program.

The bill provides that each applicant for a research and development grant would have to provide cost-sharing equal to at least 25 percent, but not more than 50 percent, of total project costs. Recent experience with our present program indicates that this requirement might exclude nonprofit organizations such as consumer groups, as well as some small businesses, which may find it very difficult to meet even this minimum cost-sharing level, and would of course exclude proposals such as those mentioned earlier, for which private funding would exceed 50 percent. Therefore, we do not believe that this inflexible rule ought to be adopted.

Section 101(a) of the bill would make available for expenditure all of the S-K moneys transferred to the fund every year. As you know, the exact amount of funds transferred in any fiscal year can fluctuate widely, and thus the amounts available in any given year may not correspond to the level of activity which is appropriate from a programmatic point of view.

The administration has proposed that the amount of money to be made available through the S-K act be determined through the administration's and Congress overall budget and priority-setting process. This approach would allow full administration and congressional review of these programs, including the amount necessary to support uniform research and development levels. Given the current concern over Government spending, I favor setting limits on the use of S-K funds through appropriation actions.

Section 101(b) of the bill specifies two projects to be funded with S-K funds. These deal with one, the establishment and operation of a voluntary system to grade the quality of fish landed in the United States, and two, the improvement of fuel efficiency in carrying out fishing operations in the U.S. fishery. We support funding of these types of projects and, indeed, will fund these types of projects, but we do not believe that a higher funding priority need be assigned to them by statute.

Section 201 of the bill would amend the Merchant Marine Act of 1936 to extend the availability of the Capital Construction Fund to shoreside processing facilities. The Department of Commerce and the Department of the Treasury have studied this question. We have obtained the services of an industrial economist who is familiar with the fishing industry and who will shortly begin working on this project. However, at this time, we feel that the risks and problems involved in the guarantee of obligations for shoreside facilities have not been clearly identified, and there is no firm evidence that credit assistance is not available for such activities without Federal guarantees. We are therefore opposed to these provisions at this time. I am not suggesting at all that we are opposed to an increase in U.S. development of shoreside facilities; quite the contrary. We want to support it, and will do so. We are simply opposed to provisions of this nature at this time.

Section 212 of the bill would reactivate the Fisheries Loan Fund to assist fishermen in danger of defaulting on mortgage payments on their vessels and would permit this fund to remain in active status until December 31, 1982. A provision of that bill would address the situation you described in your opening statement, Mr. Chairman.

I understand that this proposal represents an effort on your part o respond to the economic conditions which are now facing some egments of the fishing industry. As I mentioned earlier, a task orce has been established within NOAA to conduct an analysis of he economic conditions of the industry. Pending completion of the ask force's work, we are not prepared to support reactivation of he Fisheries Loan Fund for the purposes you contemplate.

Section 301 of the bill would amend the FCMA to make foreign rade barriers a consideration in the allocation of fishery resources o foreign nations. We support the use of the allocation process as a ool to eliminate trade barriers to the U.S. fishing exports. And ndeed, Assistant Administrator Leitzell and I have spent a good deal of time and a good deal of travel toward that end in our efforts to expand fishery exports.

However, the Department of State advises that there is currently authority, such as that provided for in the bill, which has been used in recent trade negotiations that I have referred to, and that therefore this provision would not be necessary.

Section 301 of the bill would also amend the FCMA to establish a schedule for the phaseout of foreign fishing. Under this schedule, the total allowable level of foreign fishing would be reduced to zero over a 5-year period ending in 1985, unless the Secretary of Commerce finds, with respect to any year, that the phaseout would result in a "substantial surplus of fish stocks" in a fishery, in which case he could propose to defer all or part of the scheduled reduction of the foreign harvest until the following year. Either House of Congress could veto such a proposal.

We agree that programs to accelerate development in the U.S. fishing industry are essential, but we do not believe a need exists to legislate additional conditions under which the TALFF may be reduced. Our reasons for this position are as follows:

First, the FCMA clearly provides for reductions in the TALFF consistent with domestic harvesting capability in any fishery.

Second, through the determination of optimum yield, reductions in harvest levels may be justified where they are intended to achieve domestic economic, social, or ecological benefits.

With respect to allocations of fishery resources to particular foreign nations, I have noted our recent use of such allocations as negotiating tools for the reduction and limitation of tariff and nontariff barriers to U.S. fish exports. If this provision were enacted into law, our ability to negotiate such reductions or limitations may be adversely affected. This would, of course, adversely affect the expansion of U.S. exports, thereby impeding the ability of the industry to expand its harvesting capacity.

Section 302 of the bill would amend the FCMA to provide for an additional foreign fishing fee amounting to 10 percent of the ex-vessel price of the catch. The bill provides that during the life of the amended fishery loan fund, the fund would receive, to the extent needed, the proceeds from the new foreign fees, and the balance would go to the S-K program.

We oppose the use of foreign fishing fees as a means to fund any program not directly related to foreign fishing. There is a question whether the United States has the authority under international law to exact what is, in effect, an economic rent for resources found within the Fishery Conservation Zone.

In any event, reliance on foreign fishing fees for U.S. fisheries development is not a practical long-term source of funding, as such fees will eventually diminish as the level of foreign fishing decreases.

Section 311 of the bill would mandate a 100-percent U.S. observer program on foreign vessels, the costs to be borne entirely by the foreign fishermen. Optimum observer coverage varies from fishery to fishery for biological, enforcement, and management reasons.

We have attempted to keep observer coverage at a statistically sound level of 20 percent in all foreign fisheries in order to meet our program objectives.

To date, we believe foreign compliance has been adequate in most foreign fisheries, but an analysis of recent data indicates significant underreporting may be occurring in some of the fisheries off Alaska. Because of this concern, we are undertaking a thorough analysis of the costs and benefits of the observer program. I expect this analysis will be completed by August 1, 1980. In any event, it is my view that the FCMA currently provides adequate authority for 100 percent observer coverage should such coverage be indicated for a specific fishery. The observer coverage should be based on a programmatic assessment of coverage needs based on violation levels and stock risks, not a blanket coverage.

Mr. Chairman, this concludes my formal remarks. I appreciate having had this opportunity to appear before you today. I urge you to consider favorably the administration bill, H.R. 6311. That bill and the bill which you have introduced indicate quite clearly the determination by Members of Congress and also by the administration to assist in the development of our fishing industry. The only issue is the exact legislative provisions which would be more helpful toward that end. I would be happy to answer any questions the committee may have.

Mr. **Breaux**. Thank you, Mr. Frank, for your testimony.

You know, I am really a lot more optimistic, now that I have had the administration's testimony presented in opposition to the bill. If you look back over some of the major initiatives of this committee in regard to legislation, you find a pattern—the FCMA, the administration opposed; the Coastal Zone Management Act, the administration opposed; the aquaculture bill, the administration opposed; the deep seabed mining bill, which the administration opposed—so I think we are on the right track with H.R. 7039. I am very encouraged, now that we have the opposition of the administration to the bill. I think we are moving in the right direction, and I think that we will see this bill enacted very shortly. [Laughter.]

I have a summary of your testimony. You oppose all the amendments to the Saltonstall-Kennedy Act; you oppose the proposed amendments to the Capital Construction Fund and title XI obligation guarantee program; you oppose the reactivation of the Fisheries Loan Fund; you oppose linking TALFF to the trade barriers; you oppose the phaseout of foreign fishing; you oppose the new fees on the foreign fishermen; and you oppose 100-percent observer coverage. It reminds me of Rosie's race in the Boston marathon, where she wanted the trophy, but she did not want to run the race;

because you support the goals of my bill, but you do not support any of the things that we think are necessary to get there.

The basic administration approach is to take the Saltonstall-Kennedy fund—which is the only thing that really has worked to any degree—which is paid for by duties on fish imports—and say, "Well, we are going to make that subject to the appropriations process."

What you have got to finally understand is that what it is going to mean is a lessening of the moneys available under S-K. There is no way we can go through an appropriations process, looking at those foreign duties and say we are going to end up doing better than we are doing now.

The other proposal is to take the Fisheries Loan Fund, a program for direct loans to the fishermen, which has been under a moratorium for 7 years, and say, "Well, instead of that, we are going to turn it into a guarantee program and make money available under title XI." That is just not enough. I hate to criticize you, Dick, for this, or Terry, because I am not sure how much of it is your own, personal beliefs, or how much of it is OMB, or official positions taken from on high, but I just cannot believe that anybody who has really looked at the fishing industry can come up and say that those two things are the only things that we need to do now.

Dick, you point out in your testimony that you are concerned about the budget—and everybody is concerned about the budget—but can you tell me one place where our proposal which is financed virtually entirely by an increase on foreign fees, is going to hurt our budget? There are no authorizations in this bill. The moneys that are needed are arrived at by increasing foreign fees.

How is it inflationary, how is it bad from a budgetary standpoint?

Mr. Frank. Those proposals under the bill which are financed by the foreign fees, of course, would no longer be financed by foreign fees when foreign fishing would be phased out, so I take it that that is a short term——

Mr. Breaux. Excellent point. After the foreign fishermen are out, we do not need the fees anymore. The idea is that the American industry will then replace what the foreigners are doing, and we will not need the development program.

Mr. Frank. Well, there is an assumption, however, that once the foreigners are moved out, the American industry will prosper.

Mr. Breaux. Under the terms of the bill, the only way the foreigners will be put out is if the Americans move in and bring up the slack. The bill clearly says that the phaseout period is over when the American industry has built itself up to replace what the foreigners were catching.

Mr. Frank. Well, perhaps that is a good point, Mr. Chairman, because it stresses one of the reasons we are opposed to the legislation at this time. It is that we do not believe that many of these provisions are necessary It is not that we are against the general intent of the provision.

The phaseout of foreign fishing is something which we believe will come about anyway, through natural conditions.

Mr. **Breaux**. That is not the record. Terry Leitzell has testified before this committee, and your latest records show that since we have passed the 200-mile bill, we have taken one-third of the fishing resources within our zone. That surely is not a record of substantial growth.

Mr. **Frank**. Well, as you point out, under this legislation, if that did not occur—that is, if there were not development of the domestic industry—there is an escape clause which would allow fishing to continue.

The idea of this legislation is not so different from the idea of the FCMA. It is simply because of that similarity——

Mr. **Breaux**. Well, the problem—and I think you understand it, and Terry understands it—is that as long as there are foreigners here, catching two-thirds of the fish, the American fishermen are not going to be able to get the market share and capital to expand our fleet enough to replace the foreigners. It is a case of the chicken or the egg—unless we give our fishermen a target date for when foreign fishing will end, they are not able to advance to the point of getting the foreigners out.

But back to the main point. If someone, somewhere, told you, or this were your idea, that this bill has budgetary problems, I really would like to know whether you agree. How does the bill damage the U.S. budget?

Mr. **Frank**. There are two or three provisions in the legislation which would call either for further budgetary outlays or appropriations——

Mr. **Breaux**. The Capital Construction Fund clearly has been a minor cost for the Government—a couple of hundred thousand dollars a year for administration—and has led to increased Federal tax receipts through increased productivity.

Mr. **Frank**. I agree with that, sir. It is just that if you used those funds, there would be additional budgetary outlays for cases where you need additional appropriations.

I do not think that we need to dwell on the appropriation issue here, or the expenditure issue. I think that there is something more fundamental than that.

The administration is not against utilizing funds where necessary to assist the industry. We are in a position now where we cannot say that we need to have this kind of legislation in order to benefit the industry.

You have talked about foreign vessels moving out of the zone. It is not clear at all to me that any of the major impediments to development of the U.S. industry have been foreign fishing. There have been other impediments to the development of the U.S fishing industry. One of them right now happens to be economic conditions in general.

Before, I think there have been other problems, such as the inability or unwillingness of our industry to penetrate foreign markets. That is not necessarily a fishery problem alone. It happens in other sectors in the United States. We are not exporting other products where we have certain advantages as we do in fisheries.

We do not believe that it is just foreign fishing that is causing our problems. There are other kinds of problems, which the State

Department should address, in telling foreigners now that we do not feel that they should continue to use our zone.

Mr. **Breaux**. Well, this bill might not be all the answer. There is no question about it. I am flexible. I think the members who have sponsored the legislation are flexible. But I think, in comparison to the official administration proposal, two tinkering little adjustments—and both of them, I think, really not for the better—our bill is excellent.

Maybe the phaseout of foreign fishermen is not the answer for the U.S. fishing industry. But I think it is part of a total package. I have three-fourths of the shrimp industry tied up right now, about to go under, the Northwest is having some very, very severe problems, being taken over by the Japanese to a great extent. And unless we do more than just study the problem, we are not going to have a U.S. fishing industry.

We have problems now, so why don't we take this opportunity to make some bold initiatives and try and come through with something that will be meaningful.

Mr. **Frank**. Again, let me just raise with you, in terms of thinking this through, some of the problems that are raised by this. You have talked about the difficulties with the salmon industry in the Northwest. That is caused by a variety of factors, including the fact that there is a surfeit of salmon right now. Some have objected to the fact that Japanese capital is flowing into the western part of the United States, yet I sense some feeling here that if we ask the foreigners to leave the 200-mile zone, Japanese capital would be more available to be used by our industry so even more Japanese capital would be flowing into the United States. That is, it is not clear to me whether or not we are in favor of Japanese capital coming into the United States.

Mr. **Breaux**. Dick, the problem with the Japanese capital is that it is invited by a lack of U.S. capital. and results in Japanese dominance of that processing sector. U.S. processing plants tell us they cannot borrow in the U.S. market. With all these initials we have floating around of the programs in the U.S. Government, none of them is really addressing that problem. And that is why we have made the processing and shoreside facilities come in under H.R. 7039 for some of the programs which would allow them to look to the United States to expand.

One of the problems in the salmon industry is a lack of processing capacity and a lack of markets. And I think the legislation would reduce those problems.

Don't you agree that the phaseout of foreign fishermen would encourage more joint ventures? Those countries will still need the product?

Mr. **Frank**. Yes, I believe that is correct. There would be more joint ventures if there were a phaseout or elimination of foreign fishing.

Mr. **Breaux**. And therefore, more access to foreign markets through the joint ventures.

Mr. **Frank**. There would be more pressure from the foreigners for U.S. harvesting and harvesting capacity. I am not quite sure how that additional harvesting would come about.

Mr **Breaux**. I do not want to monopolize the time. I have some other questions

Mr. Forsythe.

Mr. **Forsythe**. Thank you, Mr. Chairman.

Thank you, Dick. Both the chairman and I could spend the day with questions.

For instance, you oppose earmarking S-K for fisheries development projects. You argue that the amount of money to be made available through S-K should be determined through the administration and through of Congress budget process. In practice, this is precisely what is occurring now, and this process has resulted in the use of S-K funds for marine mammal conservation, for endangered species conservation, for the States to enable them to participate in regional fishery management councils, and for implementation of international agreements.

I do not dispute that these are worthwhile items but they are not consistent with the intent of S-K, which is to promote the development of the U.S. fishing industry.

If we codify the existing practice into legislative language, as you recommend, would you continue to recommend the use of S-K funds for purposes such as those for which they are currently used, which I have outlined?

Mr. **Frank**. Yes, sir. We continue to propose that S-K funds be used for the variety of purposes for which they were intended.

I would correct one thing. Presently, S-K funds do not go through the appropriation process. It is the administration bill which proposes that they do—which would give you, as Members of Congress, an opportunity to decide what the level would be.

Mr. **Forsythe**. Well, let us go back. If I understand you correctly, you would still recommend that they be used for the Endangered Species Act, and the Marine Mammal Protection Act?

Mr. **Frank**. If those are acceptable purposes under the act, yes.

Mr. **Forsythe**. And how does that tie into fishery development?

Mr. **Frank**. As I understand it, your question is whether we should use S-K developmental funds for nondevelopmental projects relating to marine mammals, and the answer to that is that in the future, we will not be doing that.

Mr. **Forsythe**. But it has been true.

Mr. **Frank**. It has been true in the past——

Mr. **Forsythe**. In other words, the intent of the act was different than the use that has been made in the past.

Mr. **Frank**. Well, without criticizing what has occurred in the past or commenting on it, we agree with you that for the future, it should not be done, because the primary intent of the act was to focus on developmental projects, and that is what we will be doing.

I might say in response to what has been said generally in this hearing, I am rather proud of the progress we are making with the use of the S-K funds—the proposals we are getting in now, the number of proposals, the quality of the proposals from the industry, and the fact that we will be funding a substantial number of them.

We probably have also engaged in more activity over the last 9 months, relating to fishery trade—that is, governmental efforts to promote fisheries trade—than has been undertaken in the last 10 years.

I do not think that the Government should be viewed as sitting still. There is some disagreement, I admit, with some of the provisions of the bill, as to precisely what ought to be done, how it ought to be done, and whether it ought to be in legislation.

Mr. **Forsythe.** I think it is something that this Congress is getting more concerned about being more specific in authorization legislation as a general rule.

Let us touch on your concern about the matching provision in the bill of 25 percent, particularly when it comes to S-K projects.

In your testimony, you indicated that almost all of them meet the 25 percent. How many would not meet the 25 percent?

Mr. **Frank.** In terms of total numbers?

Mr. **Forsythe.** Yes.

Mr. **Frank.** I think it would not be many; it would be some. We see no reason why those sums should be eliminated.

Mr. **Forsythe.** This is how we try and make our dollars stretch a little bit further, and I think that is one of the concerns that is expressed in this provision.

Mr. **Frank.** There are two groups that would be affected here. One is the small business enterprise, which could not match it, and the other is the consumer group. You probably would be eliminating consumer groups by that figure, and with respect to small businesses, you might be hurting some of them. Larger businesses doing the same thing could probably meet it.

But I am not sure I see the benefit of such a limitation. We fought quite hard within the administration to retain a degree of flexibility, and were modestly successful. And now we see the same effort to reduce that flexibility; we see no good reason for it.

Mr. **Forsythe.** How many consumer group proposals have you dealt with in the last year; do you have any idea?

Mr. **Frank.** Perhaps a dozen.

Mr. **Emery** If the gentleman would yield, what do you mean by "handful"? Are you talking about five on each hand, or are you talking about two projects, or are you talking about two committeesful?

Mr. **Frank.** I can give you the specific number of projects but it will be somewhere in the vicinity of a dozen.

Mr. **Forsythe.** We would appreciate getting that for the record.

[The following was received for the record:]

List of Projects Related to Consumers Affairs Submitted for S-K Funding

NMFS received a total of 16 proposals dealing with consumer related informational and educational needs, of which only one was from a consumer organization.

As a result of a Federal Register request for comment on cost-sharing requirements, 14 comments were received from consumer oriented groups. Nine commentators stated that they would have submitted proposals but did not do so because of the 20-30 percent cost-sharing requirement. The remaining 5 comments from consumer groups requested a blanket exemption from the cost-sharing requirement.

Projects	*Amount*
Increasing consumer awareness	94.2
Fish awareness education project	166.0
Better fish buying data	50.0
ADS audio radio spots	83.3
Nutritional cook book	56.0
Food fish facts update	45.0

Demo project—Consumer education	33.6
United States versus Canadian cooking method evaluation	25.0
Seafood—An all-American food	40.1
Dissemination of consumer information about fish and seafood through newspaper and consumer magazine food pages	124.5
Design, development, and organization of a media tour to disseminate consumer information on the purchased preparation of species from U.S. fisheries	76.6
Proposed feedback and assessment system	81.0
Development of information bank of consumer awareness of and knowledge about the seafood industry	42.5
Public instruction in seafood cooking, eating, and storage	124.4
National public television seafood cooking program	530.0
Development of a media resource for marketing underutilized species	385.0

Mr. **Forsythe**. On the 100-percent observer program, you indicate you have attempted to keep it at 20 percent in all foreign fisheries. You do note that data indicates some underreporting on the harvest off Alaska. According to statistics provided by NMFS, 1979 was the first year in which the observer coverage reached 20 percent off the Atlantic coast, and it has not yet reached 20 percent off Alaska. Can I read your testimony as giving this subcommittee an assurance next year and each year thereafter, absent the mandate that there will be that 20-percent coverage. In other words, you do believe you have the capability of getting a universal minimum of 20 percent?

Mr. **Frank**. Yes, sir, and we are reviewing a particular problem we see now. In connection with this legislation, we agree with the concern of the legislation which is underreporting by foreign vessels in certain fisheries. We are assessing that issue now, and indeed, we may wish to increase observer coverage, and may wish to increase it substantially in a particular area.

Mr. **Forsythe**. I think the thing that bothers me a little is that you did state in your testimony that your task force should be reporting roughly August 1, which is still a few months away. This committee, and I am sure your agency, has been aware of the problem in Alaska for many, many months, nevertheless we were not getting as good coverage there, you have only got about 8 percent up there now.

Mr. **Frank**. When the FCMA went into effect in 1977, a whole host of problems occurred. It was not clear to us which of those problems would be long-term problems and which ones we should focus on. We were aware that some underreporting was occurring. We did not know whether that would continue. One way we are attempting to see that it does not continue is by assessing rather severe sanctions. If the sanction process does not work, then additional observers may well be required.

Mr. **Forsythe**. Well, Mr. Chairman, I think I will want to come back, but I will yield for others who may have questions.

Mr. **Breaux**. The gentleman from Washington, Mr. Bonker.

Mr. **Bonker**. The Chairman, I think, articulated the concerns of many of us on this committee with respect to the administration's position not only on this bill, but on virtually every fisheries bill that comes before the committee. If we were to follow the administration's position on the Fisheries Conservation and Management Act, we would still be waiting for the ratification of the treaty of the Law of the Sea, which may or may not ever occur. But I do not think this is unusual. I think the bureaucracy has never played a terribly innovative nor a progressive role with respect to these things. The leadership does come from Congress, and that, of course, is what we are doing by taking up this legislation. So we have just come to expect your opposition to most of the progressive legislation that we take up.

But we do agree on many things, Dick, and I think you stated them well on page 2, when you talked about the task force which was established in 1978. You made reference to the fact that new and nontraditional fish species could create up to 43,000 jobs in the United States, increase the national wealth by $1.2 billion by 1990, double the present U.S. fish harvest of 2.5 million metric tons, expand the domestic fisheries production, allow development of import/export markets for the U.S. fishing industry, and help reduce the deficit in our foreign trade account.

Those are all the laudable goals to which we are committed. And yet, we do not see anything forthcoming that would indicate that the administration is clearly committed to implementing such a policy, so that is why this legislation at this time is necessary.

With respect to the fisheries loan fund, can you inform the committee how much money is presently in that fund?

Mr. **Frank**. In the reserve of the loan fund, $6 million.

Mr. **Bonker**. $6 million. And when is the last time that you extended a loan from that fund?

Mr. **Frank**. Several years ago.

Mr. **Bonker**. Seven years? Ten years?

Mr. **Frank**. Yes, 7 years.

Mr. **Bonker**. Seven years. And I assume that that is a result of a GAO report which criticized the administration for inefficiency in handling the fund, or something to that respect.

Mr. **Frank**. I think that is correct. I am somewhat reluctant to comment on that since it is so long ago, and we were not here. But I think that there were management studies which implied that the loan fund was not being managed adequately.

Mr. **Bonker**. And so the result of which is that you are just not doing anything. The money is sitting there, and you are not improving the management of the loan fund.

Mr. **Frank**. Of course, it is a rather small amount of money, compared to other funds that are available, and it has been our view that those funds have not been needed. The use of that fund as suggested here, leads to, I think, a very basic issue which we have to keep in mind. There are two kinds of programs that we may need for this industry. One is the long-haul program, which we have talked about in the context of S-K and trade and the like, and which we have been working together on—that is, Members of Congress and the administration. The other is a very different program needed to react to present and I hope not long-term economic conditions. A concern I have is tying the two together and being assured that in each instance where we take an action, we need that particular action, and take the action only for that period of time it is needed.

Some of the proposals in this legislation, I think, are addressed to short-term problems, but they do not appear to me to be short-term provisions.

Mr. **Bonker**. Well, hopefully, we can address both short-term problems and long-term goals. But the short-term situation, at least in my area, is that the fishing industry is being decimated by a variety of things. Fishermen are going under financially. I also refer to the largest seafood processing firm in the Northwest, which could not secure loans, was unable to negotiate with the banks; and now the banks have assumed control of its assets. Individual fishermen cannot secure loans from the bankers, and are going out of business. They are going bankrupt, all up and down the coast of Washington, and I assume, Oregon as well. And yet, you are sitting here with the authority, with the fund, and obviously not doing much about it.

Six million dollars may seem like peanuts to the people in the administration, but out in the Northwest, $6 million could help a lot of fishermen who are really suffering. They get the impression that people back here do not understand, do not appreciate, or do not have the capacity to deal with their particular problems. So as the resident Congressman from that area, I am always trying to bring back a message here and trying to rationalize to them your policies. I get the impression that maybe people in NOAA are just out of touch with the realities of the Northwest and perhaps other parts of the country.

Mr. **Frank**. Well, I hope that is not true, Mr. Bonker. Let me focus on the issue you have raised, about the $6 million. We have not proposed that that money remain dormant. We have proposed in our fishery development bill that the $6 million in the loan fund be transferred to the Federal Ship Financing Fund and used for very risky development.

We proposed that at a time before economic conditions became as bad as they are now. This bill proposes that the loan fund be used for a different purpose—to wit, in cases where individuals may default.

We are not here saying that U.S. funds should not be used in the case where defaults may occur. And indeed, U.S. funds have been used in those cases.

What we are saying is that we do not know how long this economic crisis will last. We have not been able to analyze how many vessels will be involved, or whether the $6 million is at all enough.

Mr. **Bonker**. But Dick, if you continue to sit here and say, "We need to analyze, we need to study, we need more data," and so forth, meanwhile, I could probably provide you with chapter and verse of fishermen who are going bankrupt. It is hurting the entire communities of these areas.

Could you at least give me your personal assurance that you would take another look at that fund with respect to helping the fishermen, who are critically in need at a time of economic crisis in the Northwest.

You say that you are looking into some possibilities, and you are analyzing others. Meanwhile, it has been 7 years, and the fund has been dormant. It is desperately needed.

Mr. **Frank**. I understand. Let me address that in two ways—first, with respect to our supposedly sitting on the $6 million. Each year, Congress has been advised of budget deferrals on the loan fund, and each year, Congress has concurred in those deferrals.

Second, we are now proposing that the deferred funds be used, although for a different purpose than proposed in this legislation. So I do not think it is fair to say that the administration is not interested in using those funds for purposes about which we are all concerned.

With respect to using the $6 million, I think that there is a more basic issue. That more basic issue is how many firms are going bankrupt. That information is important to us, because what we have to do is make projections and decide what is going to happen. I do not think it is useful to have a few boats saved—perhaps a half-dozen boats saved—by $6 million, without making some fundamental policy decisions on what we want to do about defaults in general, if there are going to be a lot of defaults.

If there are going to be only a few defaults, we can take care of them now with the amount of funds we have available. If there are going to be wholesale defaults, we will need more than $6 million. I do not think we ought to be discussing the question whether that fund should be used for this purpose, but whether, as a matter of Federal governmental policy, we should start bailing out individuals if we have a substantial economic crisis.

Mr. **Bonker**. Well, it seems to me that your emphasis now is to use money to construct new boats, which I think is important for the nontraditional species that we are attempting to exploit. But we also need a program to salvage some of the traditional fishing in the Northwest. Nonetheless, I would hope that you would submit to this committee your analysis as to how you expect to use the funds that are presently available.

I just might add parenthetically that as a result of setting up the fishery conservation and management program, and the management councils, the commercial fishermen in the Northwest have been severely curtailed for conservation purposes, if you can accept all their data. The result of this is that the Federal Government on the one hand is drastically curtailing fishing, and on the other hand, it refuses to help those that are the victims of the policies.

I am just running out of patience in trying to rationalize the Government's policy. The fisheries management councils have sometimes taken on dimensions that were not originally intended.

One last question, because I have exceeded my time here. Congressman Forsythe raised this question on the observer program. You oppose section 311 because you feel that authority already exists to provide 100-percent observer coverage, should that coverage be necessary.

Again in lengthy discussions with the fishermen, they say that in terms of incidental catch and in terms of fishing in excess of what the permit requires, that there are widespread abuses in the Northwest. It is another example that if the administration does not do a good job with the authority it now has, then Congress is going to have to be more specific.

And I will strongly support Congressman Breaux' provision in this bill to mandate 100 percent unless the administration can convince me that it is doing an adequate job. But I can either accept your word that it is adequate and there are no problems, or

I can accept the word of my fishermen, who are out there and who experience those problems. And right now, with no personal affront to you, I think the fishermen have more credibility than representatives of the administration on this particular issue.

Mr. **Frank**. We would like to see what evidence anyone has of widespread violations of that nature. We do have some evidence of violations in connection with some fisheries. What we are saying is not that we will necessarily be against 100-percent coverage, but that a requirement in legislation for 100-percent coverage everyplace, whether or not it is needed, is wasteful.

I could see that you would be concerned if we identified, or the facts showed an area where there should be more coverage, and we did not have more coverage. We are going to be responding to that very quickly. You will have an opportunity to see what our response is to a situation where we are apparently having substantial unreporting, and then you can base your judgment on whether that legislation is needed to remedy that situation.

Mr. **Breaux**. The gentleman from Maine, Mr. Emery.

Mr. **Emery**. Thank you, Mr. Chairman.

To begin with, Mr. Chairman, I want to compliment you on your opening statement. First of all, I think it reflects the feelings that those of us in the Northeast have, as well as those expressed by other members of the committee.

What I would like to focus on for a few minutes is the allocation of the S-K funds. Presently, some $10 million is allotted for industry. The legislation would propose to increase that to 75 percent.

I wonder if you might be able to walk us through the review process. How does the National Marine Fisheries Service presently review so-called private industry projects, and how do you believe that that is actually working? How are those selections made?

Mr. **Frank**. I would like to have Assistant Administrator Leitzell do that, because he is in fact the person who supervises that review, if I may, Mr. Emery.

Mr. **Emery**. That is fine.

Mr. **Leitzell**. We initiated this year, Mr. Emery, a review process for the $10 million that was available in fiscal 1980 funds for Federal Government/industry cooperative projects.

The process began with a specific solicitation published in the Federal Register in November and a notification directly to many industry members that it was going out——

Mr. **Emery**. When you say direct solicitation from industry members, how was that done?

Mr. **Leitzell**. There was a Federal Register notice and there was a due date for proposals. The information on the due dates and so forth is generally made available throughout the industry.

Mr. **Emery**. Well, there again, what do you mean by generally made available throughout the industry? Do you send letters to every fish processor or fisherman, or do you merely put it in the Federal Register, where only a few people in the State of Maine or elsewhere would see it?

Mr. **Leitzell**. It was done also through a press release. It was done through a fair amount of personal contact with individuals. I think in terms of that information actually getting out to the industry, that it was generally known what the due dates were and what the format was that was required.

Mr. **Emery**. I have had some complaints that they were not apprised of the process, or money available, or did not exactly know how to go about applying for funds. I think you do have a problem in disseminating information. I do not exactly know how to solve it, but I simply want to bring to your attention that I do not think that procedure is adequate.

Mr. **Leitzell**. I would be happy to look at that again, Mr. Emery. We will be doing this again in July for fiscal 1981 funds, and any recommendations that you or any of your constituents may have, I would be happy to have.

There were two due dates for the projects for fiscal 1980 funds, February 8 and April 1. Each set of projects was screened and reviewed by the regional offices of the Fisheries Service in the five regions around the country. There was consultation with the regional fisheries management councils at that point. And the projects were then submitted to Washington, where they were reviewed in two groups: One, the fisheries development set of projects, and two, those in the area of quality, safety, and consumer education. They were reviewed by experts from within the Fisheries Service, other Government agencies, and one industry expert from each region of the country.

Mr. **Emery**. What were those three review points—quality and so forth——

Mr. **Leitzell**. There were two separate groups of projects that were reviewed, one in the entire development area——

Mr. **Emery**. No, but you mentioned that you reviewed them for consumer——

Mr. **Leitzell**. No. They were divided into two separate groups, one of which was quality, safety and consumer education; the other was general development.

There was a group of factors and a rating system that was used. That, I can provide you in writing rather than going through it, if you would prefer. There was a list of factors against which all projects were reviewed and which were published also in the initial solicitation. But I can provide that for the record.

Mr. **Emery**. I think that would be appropriate if you could provide us that.

[The following was received for the record:]

CRITERIA FOR PROJECTS

These criteria included the following:

1. The extent to which project objectives and design are consistent with national fishery development goals (20 points);
2. The technical, regional, and economic feasibility of the project and likelihood of project objectives being obtained (20 points);
3. Adequacy of the project plan in terms of level of effort, time, costs, organization, and management of the project (15 points);
4. Extent to which the applicant proposes to obtain greater than the required minimum financial or in-kind contributions from sources other than the NMFS including private sources, taking into account the nature of the applicant and the proposed project (15 points);
5. Adequacy of the evaluation procedures to monitor the project while it is in progress and to determine the impact of the project once it is complete (10 points);
6. Qualifications of the management team (10 points); and
7. Relation of the benefits to be received to the costs of the project (10 points).

Mr. LEITZELL. They are then reviewed by the Director of the Office of Utilization and Development in Washington. The first set of proposals that initially came in in February, is now in the process of being given to me for my final review, and my decision should be made within the next 2 weeks on that first set. The second set, which came in early April, is going through a parallel process, with a decision sometime in June.

Mr. EMERY. Do you have a booklet or a printed guidance that lists all of the steps in the review procedure?

Mr. LEITZELL. Yes, I would be happy to provide that.

Mr. EMERY. I would like a copy, and I think we ought to have a copy for the record.

Mr. LEITZELL. We certainly could provide that.

[The following was received for the record:]

DESCRIPTION OF THE S-K PROCESS

A key element of the Administration's policy on fisheries development, announced in May 1979, is the cooperative Federal Government-fishing industry program to develop and utilize resources in our 200-mile Fishery Conservation Zone not traditionally harvested by American fishermen. Part of this program involves the use of Saltonstall-Kennedy Act funds (S-K) to provide financial assistance to the fishing industry to overcome impediments to the development of fish resources. To implement this program, the National Marine Fisheries Service, through a Notice published in the Federal Register of November 15, 1979, solicited proposals to address impediments to the development and strengthening of the fishing industry.

By February 8, in response to the solicitation, the National Marine Fisheries Service (NMFS) received 253 proposals requesting $48.9 million in financial assistance. These proposals were separated into two categories: (1) fisheries development; and (2) product quality and safety/consumer education. They were reviewed, evaluated, and ranked in these two categories. Because of the more technical, basic research orientation of proposals in the product quality and safety/consumer education area as compared with the applied nature of proposals in the fisheries development area, NMFS found that it was not practical to incorporate either the review procedure or the final ranking of these groups into one single process.

Within the above noted areas, proposals were further divided according to whether or not they were national in scope, i.e., dealing with issues or problems affecting more than one region, or regional in scope, i.e., dealing with the problems or needs of a single region.

The regional proposals were first reviewed by regional staff in the respective Regions, while individual Divisions within the Office of Utilization and Development (F/UD) reviewed national proposals to determine technical merit and relevance to fisheries development goals. A comprehensive review and evaluation of all proposals was then conducted by F/UD in which the proposals were evaluated according to the criteria specified in the Federal Register Notice. Participating in the ranking of the fisheries development proposals were 3 members of the F/UD staff, the Regional Fisheries Development Chiefs, a representative from the Minority Business Development Agency, and 3 industry members who provided technical advice on industry problems. Participating in the evaluation of the product quality, safety and consumer projects were 15 NMFS staff, 3 consumerists, 1 university expert, and 2 employees of other Federal agencies. These persons were divided into four subpanels representing th five substantive areas covered by the proposals received in this area: (1) consumer services; (2) fisheries data collection; (3) macro/microconstituents; (4) marine metabolites; and (5) microbial safety.

Final recommended rankings were determined by NMFS staff as required by General Counsel.

Summaries of the fisheries development projects were presented at a special meeting of the Department of Commerce Shore Area Development Task Force. The Task Force meets to provide increased coordination and information transfer among various Department of Commerce agencies. Participants from CZM, EDA, OSG, MARAD, and the Office of the Secretary were briefed and were asked to review the proposal summaries to identify conflicts, duplication, and other problems. Based on comments received from this review, modifications will be required for certain proposals to insure that there is adequate coordination with complementary projects funded by the other agencies. This principally involves Sea Grant.

REVIEW PROCESS

Proposals were reviewed in two phases. An initial review was conducted by the NMFS regions for regionally oriented proposals and by the Washington Office for those dealing with broad national impediments or issues. This review was conducted to determine whether all information specified in the Federal Register Notice was provided and whether the minimum cost sharing requirements had been met. In addition, the proposals were reviewed for consistency with fisheries development goals to insure that they addressed impediments to the development or strengthening of the U.S. fishing industry. The NMFS regions incorporated comments from other NMFS elements as to technical and economic feasibility and from Fishery Management Councils as to consistency with conservation and management activities. An important consideration in this review was the extent to which the applicant justified the need for the proposed activities to overcome specific impediments which have restricted the U.S. fishing industry from developing fisheries.

Taking these factors into account, the Regions and the Washington Office (on national proposals) then classified all proposals as to whether they were high, medium, or low priority in terms of the 1980 solicitation. Proposals which did not meet the minimum requirements and were ranked low priority were generally deficient in fully defining and supporting the existence or seriousness of the impediment addressed by the proposal or in supporting the value of the work to be performed. Many of these proposals dealt with impediments to development of fisheries in a particular locality without relating this to the overall needs of the industry in the entire region. Many applicants also proposed to conduct activities which had been done previously or which were judged to be applicable under other Government programs. These included resource assessment, fisheries management, and information gathering and dissemination. The proposals, however, were not penalized because they proposed such activities but were evaluated in terms of the need for such activities to address specific impediments to development. Proposals meeting the minimum requirements were then critically reviewed from a technical standpoint according to the criteria presented in the Federal Register of November 15, 1979, and given a numerical score based on this review.

In evaluating proposals according to the established criteria, reviewers considered the following:

1. Which fisheries were affected, the degree to which these fisheries have been developed, and the degree to which these fisheries could be developed;
2. Which impediments were being addressed, the seriousness and extent to which the fishing industry was affected by the impediments, and the extent to which the proposed activities would enable the industry to overcome the impediments;
3. Whether the amount of cost sharing provided was appropriate in terms of what the review panel believed could or should be provided from other sources;
4. Whether the evaluation procedures for the project were objective, feasible, and comprehensive; and
5. Whether the applicant had previous experience in the fishing industry, the ability of the applicant to involve other interested persons or groups in the proposed activities, and the contribution of the applicant to the success of the proposed activities.

Proposals which were then recommended as being disapproved for funding or of a lower priority generally contained one or more of the following problems:

1. The fisheries affected by the proposal were more fully developed than other fisheries;
2. The impediments identified in the proposal were not as critical or as far reaching as other impediments and, therefore, the potential benefits were less than would be obtained in addressing other impediments;
3. The applicant provided a level of cost sharing that was less than might be expected or the applicant did not provide sufficient justification for lack of greater cost sharing;
4. The applicant did not provide for or involve other parts of the industry either in the project activities or in the evaluation of the project, where this was a feasible option;
5. The applicant did not propose evaluation procedures to determine the relative impact of the project in accomplishing the stated project goals;
6. The experience of the applicant with the fishing industry or with the specific impediments addressed by the proposal was not extensive; and
7. The costs of the project were excessive in terms of benefits to be received.

The proposals were then ranked by the reviewers in terms of the technical aspects of the proposals and the clarity with which they were presented. The ranking, however, also took into account the general thrust of the proposal and the critical nature of the impediments that were addressed. In some cases, the final ranking reflected modifications recommended by the review panel to insure that the proposal would fully and accurately address the needs of the industry and meet the requirements of the Federal Register Notice. Many proposals could not be easily modified without a major reworking of the proposal and the panel did not believe it was appropriate to do this. In some cases, therefore, the recommendations are contingent on the applicant agreeing to the modifications required by the review panel. Generally, the modifications call for deletion of certain activities or clarification of the actual work that would be performed.

federal register

THURSDAY, NOVEMBER 15, 1979

THE NATIONAL ARCHIVES OF THE UNITED STATES
1934

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

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FISHERIES DEVELOPMENT AND UTILIZATION RESEARCH AND DEMONSTRATION GRANTS AND COOPERATIVE AGREEMENTS

Financial Assistance for Fisheries Development; Availability/Instruction to the Public

AGENCY: National Oceanic and Atmospheric Administration/Dept. of Commerce.

ACTION: Notice of availability/Instructions to the public.

SUMMARY: The National Marine Fisheries Service announces the availability of fiscal year 1980 funds to conduct activities that would foster the development of and strengthen the fishing industry of the United States and increase the supply of wholesome, nutritious fish and fish products available to consumers. Projects will be funded through grants and cooperative agreements. Any person or group may submit a proposal. This notice sets forth conditions under which proposals will be evaluated to determine appropriateness for funding.

EFFECTIVE DATE: November 15, 1979.

FOR FURTHER INFORMATION CONTACT: Office of Utilization and Development, National Marine Fisheries Service, Washington, D.C. 20235, Phone: 202-634-7252, Attention: Preston Smith.

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Section I—Eligible Applicants

Applications for funding of fisheries development projects through either grants or cooperative agreements can be made by any person or group including Federal, State, and local governments, and Department of Commerce Regional Development Commissions in accordance with the procedures set forth in this notice. NMFS encourages minority individuals and groups, including women, to submit proposals for funding.

Section II—Availability and Duration of Funding

For fiscal year 1980, NMFS has available about $10,000,000 to fund the fishery development and utilization projects solicited herein. Either grants or cooperative agreements will be awarded for a period of 1 year, and may be continued on a non-competing basis for 2 additional years, if originally awarded as a multiyear project. Continuation funding is contingent upon the availability of future year funds, the meeting of project objectives, and the continued relevance of the project to the stated fisheries development policy. Any proposal submitted for multiyear funding shall contain a detailed proposal for the initial year in which funding is requested plus an outline of planned activities and expected costs for the succeeding year(s). A detailed plan of those activities and costs to occur in the succeeding year(s) shall be submitted within 6 months after an award is made.

Section III—Cost Sharing Provisions

Part of the total costs of each project, which would include in-kind contributions, must be provided from private and other than NMFS sources of financing. The amount of cost sharing will be an important factor in the selection of projects to be funded.

NMFS has determined that the amount of cost sharing should be related to two factors: (1) The relative distribution of the direct benefits from the project among the public at large vis-a-vis defined segments of the fishing industry; and (2) the relative risk of the project in terms of its potential ability to generate private profits. A project which will benefit the general public, such as a research project dealing with the safety of fish and fish products, will have a lower cost sharing requirement than one which directly benefits a specific segment of the industry or an identifiable number of firms. Similarly, industry demonstration projects in relatively risky ventures, such as those which are geared towards the harvesting, processing or marketing of nontraditional U.S. species, i.e., squid, Alaskan Pollock, etc., will be expected to provide lesser amounts of cost sharing than would industry projects directed towards species where strong domestic or foreign markets already exist for a U.S. product.

Specific cost sharing guidelines are still being developed and will be published at a later date. The guidelines will specify minimum cost sharing requirements that will have to be met but which may vary depending on the type of project and the capability of the applicant to share in the costs of the project. In some cases, the minimum cost sharing requirements for the applicant will equal 50 percent or more of the total costs of the project. Prospective applicants should make every effort to provide a significant share of the total costs of the project from in-kind contributions, private sources of funds, and sources of funding other than NMFS. The amount of cost sharing provided will be a significant factor in the evaluation of all proposals and will account for 15 points out of a total of 100 points to be assigned in evaluating the proposals.

In all cost sharing arrangements, including the definition of in-kind contributions, NMFS will determine whether the necessary cost sharing requirements have been met by the applicant.

Section IV—Appropriate Fisheries Development and Utilization Activities

NMFS intends that its funding of fisheries development activities will help remove economic and technological impediments to the development and strengthening of the U.S. fishing industry and increase the supply of wholesome, nutritious fish and fish products available to consumers.

Federal policy on fisheries development has established a number of policy goals. These are:

(1) To encourage the development and growth of the domestic fishing industry, thereby providing increased employment opportunities, improving the economic well-being of fisheries-dependent communities, and increasing the supply of economically priced fish and fish products to U.S. consumers;

(2) To lower the foreign trade deficit in fishery products through increased exports of U.S. fish and fish products;

(3) To provide consumers with fish and fish products that are wholesome and nutritious and to provide the quantity and variety of fish and fish products that the consumer demands;

(4) To promote a coordinated effort between the fishing industry and Federal, State, and local governments to achieve fisheries development;

(5) To encourage the development of fish resources which will support growth in the fishing industry and strengthen the long-term viability of the industry; and

(6) To improve market efficiency, both domestic and foreign, through information transfer and the elimination of any practices that restrict competition.

NMFS is seeking to support fisheries development activities which will contribute to and support these goals.

In general, the NMFS will consider funding activities for:

(1) Fishery specific programs designed to develop a new fishery or expand an existing fishery which has potential for growth. Such programs would describe all the various elements or work tasks in the areas of harvesting, processing, distributing, and marketing which relate to each other and which would be necessary for the development of a fishery. The activities of such a program might include:

(a) Exploratory fishing and other activities to improve harvest techniques, including efforts to improve efficiency;

(b) Developing or demonstrating a new or existing technology, including new and more efficient handling, processing, and preservation methods;

(c) Developing new fish product concepts and/or forms and addressing problems/questions regarding product quality, safety, and nutritional value; and

(d) Developing new markets or expanding existing markets, both in the United States and in foreign countries.

(2) Programs which are not fishery specific but are related to more than one fishery or which would have an impact that is more national in scope. Examples of activities in these programs include:

(a) Infrastructure development planning;

(b) Technology development and transfer;

(c) Expansion of exports and improved access to foreign markets;

(d) Development of information on the safety, quality and nutritional value of fish and fish products;

(e) Promotion of efficiency in the market and reduction or elimination of adverse impacts resulting from regulations that affect the fishing industry;

(f) Expansion of consumer awareness and knowledge about fish and fish products; and

(g) Developing a program of assistance to small and minority businesses to enable them to participate actively in the development of fish resources and utilization of fish and fish products.

For fiscal year 1980, the NMFS seeks to fund fisheries development and utilization activities in 7 areas of interest and concern which are of equal priority. These areas, which are described below, were identified by the Department of Commerce Fisheries Development Task Force and by members of the fishing industry as the most desirable. The final report of this Task Force is available from the office listed at the front of this notice. The topics described within each area are merely illustrative of projects that might be performed and do not exclude other possible projects within the 7 areas of concern.

Applicants having ideas in any of these 7 areas are encouraged to develop them into complete proposals. There is no guarantee that sufficient funds will be available to make awards for all approved proposals even in the solicited areas. All proposals submitted will have to compete with one another within and across areas.

Section V—NMFS Priority Areas for Grants and Cooperative Agreements

A. *Regional Fishery Specific Programs.* In this area, NMFS is soliciting proposals for (1) projects to identify a specific fishery or group of fisheries capable of supporting further development, plan the development or expansion of these fisheries, and define those activities which, if undertaken, would lead to development or expansion of the fishery or group of fisheries; (2) projects to identify and plan the removal of impediments which significantly inhibit development or expansion of such fisheries; and (3) projects for effective outreach to small and minority groups involved in those fisheries. A fishery is defined as an interrelated set of elements, from production through consumption, that are related to a specific species or several species which are similar in nature. Examples of fisheries are Alaskan pollock, Pacific whiting, New England whiting, Gulf of Mexico groundfish, etc.

It is anticipated that a regional fisheries specific program will include projects from some or all of the remaining 6 areas of emphasis. Similarly, any proposal that addresses the needs of a particular region should identify how it relates to any regional program to develop a fishery or group of fisheries where such a program exists. Proposals which address regional needs will be considered even though they may not be part of an existing regional fisheries specific program; however, such proposals will be evaluated within the context of the needs of the region as identified in the regional program and will be ranked more favorably if they are closely integrated with the regional plans where such plans exist.

The NMFS is seeking to encourage a regional approach to developing or strenthening fisheries in recognition of the particular characteristics and differing priorities in the various regions. Regional priorities should be identified and established by groups or organizations having an interest in the development of fisheries in the region.

B. *Technology Development and Transfer.* Projects in this area would include (1) analysis through studies and demonstrations of current technologies being used in the harvesting and processing sectors of specific fisheries by U.S. harvestors and processors, as well as those used by foreign producers, the feasibility of transferring available technology from one fishery to another, and the costs and benefits of such technology transfer; (2) projects to improve storage techniques, improve processing or preservation methods or determine other means which would increase the ability of the industry to utilize available fish resources and provide an increased variety of safe, wholesome, and nutritious fish and fish products to consumers; (3) projects which examine fishing vessel safety, to determine or demonstrate how the safety of the vessel operations might be improved, and develop programs to teach vessel safety; and (4) projects to determine and reduce energy needs of the harvesting and processing sectors, and to disseminate information on technological advances in energy conservation measures applicable to the fishing industry.

C. *Improving Access to Domestic and Foreign Markets.* In this area, projects would be designed to (1) identify U.S. fish resources presently or potentially available for export and determine potential foreign markets where U.S. fish and fish products could be introduced or where exports could be increased; (2) organize marketing ventures which demonstrate the existence of export markets, export education activities to inform U.S. producers of export markets, and trade missions to promote acceptance of U.S. fish and fish products; (3) determine fish product forms, styles, etc. required or desired by foreign seafood consumers; (4) determine, compile, and publish fish and fish products safety, quality, and labeling standards and inspection requirements of foreign governments and product specifications of foreign purchasers; (5) determine the impact of imported fish and fish products and of domestic and foreign trade barriers on the American economy and procedures and implications of requiring or removing tariff and non-tariff barriers; (6) develop foreign consumer awareness of American fish and fish products; and (7) expand the use of domestically harvested fish in institutional markets in the United States, with particular emphasis on introducing developing fishery resources into domestic markets.

D. *Safety, Quality, and Nutritional Value of Fish and Fish Products.* In this area, NMFS is soliciting (1) studies to determine the levels and public health significance of hazardous materials in fish and fish products; (2) studies to identify and measure natural toxins in fish, and research to avoid or remove toxic fish from the market place; (3) studies to determine characteristics, chemical properties, composition, and nutritional qualities of commercial and recreational species; (4) studies to determine the effects of processing, storage, additives, and methods of cooking on the nutritive quality and shelf life of fish and fish products; (5) studies to assist in the development of modern, effective product standards and specifications addressing the safety, quality, nutritional value, fill-of-container, labeling (including nomenclature), and composition of fish and fish products; and (6) studies to identify and eliminate specific safety, quality, and identity (labeling) problems which are impediments to the development and utilization of nontraditional or underutilized fish resources.

E. *Infrastructure Development.* NMFS is soliciting proposals for (1) studies, at the regional level, complementing efforts by the Economic Development Administration, Maritime Administration, Minority Business Development Agency, or the U.S. Army Corps of Engineers, to define impediments to fisheries development resulting from lack of ports, harbors, or support facilities; (2) cost/benefit studies to determine the feasibility of public expenditures on such infrastructure; and (3) studies to plan the placement, characteristics, and priorities of such infrastructure required to support regional fisheries development activities.

F. *Industry Economic Studies.* Studies in this area should be of an applied nature designed to achieve results that could be translated into specific actions by either industry or appropriate Federal, State, or local governments. This would include (1) studies to identify the nature and types of market forces that exist in the seafood market place, how these differ from traditional markets, whether these market forces tend to inhibit the free flow of fish and fish products, and how these forces could be altered to promote an increased flow of fish and fish products to meet consumer demands and promote system efficiency; and (2) studies to determine market structure and the need for government assistance to cooperatives, how the creation of cooperative institutions would affect small minority businesses, the production process, the structure of the market, or prices and quantities of product available to the consumer, and any other impacts of any such cooperative institutions on the industry.

Additional studies would identify the requirements and needs of the investment community and develop methods to help firms within the fishing industry to strengthen their operations to gain needed financing. There is also a need for studies to analyze the effect of existing or proposed Federal and State regulations on fisheries development and utilization, determine the cost impact of such regulations on the fishing industry and on consumers, and investigate ways to minimize or eliminate any unneccessarily adverse impacts; studies to examine the practicability of establishing new fishing businesses around new fisheries technologies; and projects to develop methods to upgrade existing small and minority businesses through the transfer of appropriate and new technologies to existing businesses and the use of specially designed education programs to assist these businesses to improve their management capabilities as they increase the size of their businesses.

G. *Consumer Education/Consumer Awareness.* In this area, NMFS is soliciting (1) studies which would determine consumer attitudes toward fish and fish products and measure seafood consumption patterns; (2) projects to develop information to meet consumer needs, including data and information on the safety, quality, and nutritional value of fish and fish products; (3) studies to determine and demonstrate the most effective type of educational materials about fish and fish products and the best system for disseminating these materials to consumers; (4) development of a monitoring system to evaluate consumer education efforts and to encourage consumer participation in both regional and national fisheries development and utilization programs; and (5) activities to educate consumers on the nutritional advantage, economy, and preparation of fish and fish products.

Section VI—Review Criteria

Proposals to conduct fishery development and utilization projects, as solicited by this notice, must meet certain minimum requirements to be considered for funding. These include consistency with the national goals for fisheries development outlined in the Policy and Program Statement on Fisheries Development issued in May 1979 (obtainable from the office listed at the beginning of this notice), provision for the required sharing of costs through other than NMFS sources of funding, and a minority business plan. Proposals which do not satisfy these minimum requirements, as determined by staff review at the Regional or Washington, D.C. Offices of NMFS, shall not be submitted for a formal review and evaluation in accordance with the criteria described below.

In addition to these minimum requirements, proposals addressing needs of a particular region shall give evidence of support by persons or groups within the region directly affected by the proposal or having an interest in the proposal objectives. Proposals must include adequate provision for the evaluation and monitoring of project performance. This is particularly important in the case of proposals for demonstration projects.

Proposals which contain these elements will be given point scores using the following criteria:

(a) The extent to which project objectives and design are consistent with national fishery development goals (20 points).

(b) The technical, regional, and economic feasibility of the project and likelihood of project objectives being obtained (20 points).

(c) Adequacy of the project plan in terms of level of effort, time, costs, organization, and management of the project (15 points).

(d) Extent to which the applicant proposes to obtain greater than the required minimum financial or in-kind contributions from sources other than the NMFS including private sources, taking into account the nature of the applicant and the proposed project (15 points).

(e) Adequacy of the evaluation procedures to monitor the project while it is in progess and to determine the impact of the project once it is complete (10 points).

(f) Qualifications of the management team (10 points).

(g) Relation of the benefits to be received to the costs of the project (10 points).

Section VII—Review Process

Proposals for fisheries development projects that deal with a particular fishery or which would affect a particular Region or area of the country should be submitted to the appropriate Regional Office of the National Marine Fisheries Service. A listing of Regional Offices and the States serviced by each appears at the end of this notice . Projects that do not directly address the development of a particular fishery or region of the country but would address broad national impediments to increased use of fish and fish products, industry efficiency, or consumer welfare should be submitted to the NMFS Washington Office for evaluation.

Proposals submitted to a Regional Office of the NMFS will be reviewed by the Regional Office, in consultation with the NMFS Fishery Research Centers, Regional Fishery Management Councils and others as appropriate. The relationship of the development proposal to fishery management efforts is an important element of the initial screening process. Therefore, the appropriate Regional Fishery Management Council(s) may be asked to review the proposals and advise of real or potential conflicts with the activities of the Council(s).

All proposals will initially be reviewed by the Regional Office or by the NMFS Washington, D.C. Office of Utilization and Development, as appropriate, to determine whether the minimum requirements of this notice have been met, and whether the proposal is qualified for funding. Decisions concerning minimum requirements by the Region or the NMFS Washington Office of Utilization and Development will be final. Those proposals which have been determined to meet minumum requirements will be further reviewed by the Washington, D.C. Office of Utilization and Development in accordance with the established criteria outlined above. As part of this review all projects will be given point scores based on the aforementioned criteria. Personnel from other Federal agencies and independent experts may also be requested to provide comments that would aid in determining which proposals should be recommended for funding.

The Office of Utilization and Development will then develop and submit its recommendations for project funding to the Assistant Administrator for Fisheries who will make the final determination as to which projects will be funded. The type of funding agreement to be used and the official awarding of funds will be made by the NOAA Grants Officers.

Section VIII—Recommended Format

The format used for project proposals should give a clear presenation of the proposed project and its relation to the specified policy objectives. Each proposal should follow the format outlined below unless there is a compelling reason to do otherwise.

A. Cover Sheet

A Federal Government Standard form 424 shall be used as the cover sheet. In the description of the proposed project called for on this form, the applicant shall indicate the fisheries to be affected either by name, location, or other project identification characteristics, the duration of the project, and a brief indication of the expected results of the project. Standard form 424 may be obtained from the NMFS Regional Offices or the NMFS Washington Office listed at the end of this notice.

B. Project Description

Each proposal shall provide, in fifteen pages or less, a complete and accurate description of the proposed project. This section should provide the basic information to be used in evaluating the proposal to determine its priority for funding.

The information provided in this section must be brief and specific. Detailed background or financial justification material for any information given in this section must be included as supporting documentation to the proposal.

The following format shall be used for the project description:

(1) *Project Goals and Objectives.* The project's objectives must be clearly and unambiguously stated. To the greatest extent possible, they should be stated in quantitative terms or other descriptors which can be measured. The impediments to development which the project is addressing shall also be articulated and the extent to which the project will eliminate or reduce those impediments should be described.

(2) *Appropriateness and Need for Government Financial Assistance.* The proposal should clearly state why Federal financial assistance is needed and, if relevant, what factors inhibit private industry from undertaking the project without such assistance. All available alternatives to Federal assistance, including State and local government aid, should be listed.

(3) *Participation by non-Government Entities.* The expected or required participation by non-government entities in the proposed project(s) which complement and support the proposal should be described, indicating what benefits, if any, will accrue to those who participate and the process through which non-government entities can take part in the project.

(4) *Federal, State, and Local Government Activities.* All existing Federal, State, or local government comprehensive plans or activities which would be affected by this proposal should be identified, and the relationship between the proposed project(s) and these plans should be explained.

(5) *Project Outline.* The proposal should clearly set out the tasks that are to be performed, the key events or milestones in accomplishing the task schedule, and the feasibility of achieving each of these events or milestones.

(6) *Project Management.* The proposal should describe how the project(s) will be organized and managed and should list those persons or groups who will perform the project(s) along with their qualifications to do so and their level of involvement in the project(s).

(7) *Project Evaluation.* The proposal must describe how the progress of the project will be monitored and evaluated while the project is underway and upon completion. The proposal must also indicate what actions the applicant would undertake in the event project objectives become unattainable. This is

particularly important in the case of demonstration projects where specific tasks and results may be influenced by factors beyond the control of the applicant.

(8) *Project Benefits.* The proposal should indicate the direct and indirect benefits that the project seeks to achieve and to whom these benefits will accrue. These benefits should be described in quantitative terms to the extent possible and practical.

(9) *Dissemination of Project Results.* The proposal should describe (a) how the project results will be distributed to the public, including consumers; (b) who is anticipated to use these results; and (c) how they would be used.

(10) *Project Costs.* The proposal should provide a detailed schedule of project(s) costs, identifying in particular, (a) sub-contracts, (b) salaries, (c) travel cost, and (d) other administrative and technical costs of the project(s).

(11) *Cost Sharing for the Project.* All projects will require some costs to be covered by other sources of funding. All activities which will be undertaken either directly or indirectly by the applicant or by others as a result of participation in the project(s), which will be funded through private and other than NMFS sources of funding including in-kind contributions should be identified and the financial amount of this participation quantified. The portion of the total costs of the project and the timing of availability of contributions which would be accounted for by this non-government involvement should be indicated.

C. Consultations

This section shall describe the extent to which the applicant formulated the proposal and intends to carry it out in coordination with other interested persons (including minorities) or with those who might be directly affected by the project. Specifically, the proposal shall:

(a) Identify those persons or groups directly responsible for producing the proposed project;

(b) Identify those persons or groups who were consulted during the preparation of the proposed project, and their expected involvement in the project; and

(c) Provide the names of persons or groups, if any, who are known to oppose the project or who might oppose the project, setting forth the reasons for the actual or expected opposition.

D. Minority Business Enterprise Plan

It is the policy of the Department of Commerce that recipients of grants or cooperative agreements of $100,000 or more shall procure from minority business enterprise reasonable portions of the supplies, equipment, or services purchased with such assistance. Therefore, any applicant seeking financial assistance of $100,000 or more shall include a plan to promote minority business enterprise which will be implemented if the assistance is awarded. Information concerning the content of a Minority Business Enterprise Plan is available from the NMFS Regional or Washington Offices.

E. Supporting Documentation

The supporting documentation shall contain any further justification for information used in describing the project if the applicant feels such additional documentation would strengthen the proposal. The amount of information given in this section will vary depending on the type of project(s) for which funding is being sought. In preparing this section, the applicant should attempt to present any information which would lend greater credibility to the project. Of particular importance would be the significance of the impediments addressed by the proposal and the methodology used to calculate the costs and benefits of the project. In any instance where the applicant may feel that the merits of the project may not be fully understood or the value of the project to fisheries development may be underestimated, the supporting documentation would provide the means to support the project's value. In the same respect, the lack of adequate supporting documentation may cause reviewers to question assertions which were made in describing the project and may result in the project being ranked lower than if more detailed information had been provided.

Section IX—Administrative Requirements

A. Obligation of the Applicant

It shall be the responsibility of the applicant to satisfy all requirements for submission of a proposal and to provide all information necessary for the evaluation of the proposal. Any omission of information can lead to a lower evaluation of the proposal and a lower priority ranking for funding approval. The applicant or designate shall be available to respond to questions concerning the proposal. In the event a proposal is approved for funding, the applicant shall be responsible for satisfying all administrative and managerial conditions that may be required by NMFS.

B. Obligation of the National Marine Fisheries Service

It shall be the responsibility of the National Marine Fisheries Service (NMFS) to provide all forms and explanatory information necessary for the proper submission of proposals for fisheries development and utilization projects. NMFS shall also provide advice, through the NMFS Office servicing the applicant's area, to insure adequate knowledge on the part of the applicant of NMFS fisheries development policies and goals. In the event a regional proposal is approved for funding, the appropriate NMFS Regional Director shall be responsible for ensuring that all requirements and conditions for the use of such funds are known by the applicant.

NMFS will monitor all projects to ascertain their effectiveness in achieving the stated objectives of the project and in producing measurable results. The monitoring process will compare the actual accomplishments of a project with the specific goals the project was intended to accomplish. Important considerations in this process will be the attainment of the goals described in the project proposal within the time frame specfied and the actual measurable accomplishments that can be attributed to the work performed by the project. Conclusions drawn by NMFS in monitoring projects will be used to support funding decisions on multiyear projects and on succeeding or similar projects.

C. Legal Requirements

The applicant shall be required to fulfill any requirements of applicable Federal laws.

The applicant submitting a proposal for which Federal assistance is approved shall manage the day-to-day operations of the project. The applicant shall be responsible for the completion of those actions required in connection with the funding.

D. Reporting Requirements

The applicant for a project approved for funding shall be required to submit quarterly reports concerning the use of funds and progress of the project. These reports shall disclose whether goals, objectives, or planned accomplishments are being achieved within projected time periods, if necessary, reasons why goals and objectives are not being met, and reasons for changes to plans and the resulting redirection of resources and activities. If several projects have been funded, the report should cover each fishery development and utilization project and/or award, whichever is appropriate. Such quarterly progress reports shall be due within 30 days after the end of the quarter and shall be submitted to the person specified by the funding agreement. The quarterly reports need not be long, but they must be informative in responding to the issues raised above.

A final report shall be submitted within 90 days after the end of the project. The final report shall describe the project and the work that was performed. It shall describe the results that were obtained and shall quantify these results to the extent possible and practical. The project results should relate specifically to the objectives of the project and should be identified as either resulting from the work performed or from external factors over which the project managers exercised no control. The results shall be described in terms of their success in resolving specific impediments to development and/or their potential for being integrated into the efforts of private industry to develop fish resources. Any conditions or requirements that must be met before the project results can be effectively utilized shall be identified shall be identified and described. The final report shall be made available by the NMFS to Congress, other public agencies, and the public upon request.

The applicant may be required to report on a more frequent basis if the NMFS finds that this is necessary to ensure that NMFS can carry out its responsibilities in project monitoring.

Section X—Application Submission and Deadline

One signed original and two (2) copies of all completed applications must be submitted to the appropriate reviewing official at the address specified below. Proposals must be received not later than January 15, 1980 for projects to be funded in April 1980 and not later than April 1, 1980 for projects to be funded in July 1980. The amount of funding available for the second submission will be contingent upon obligations made in the first.

Proposals submitted by January 15, 1980 which do not rank high enough to receive funding, will be retained for consideration with those being received by the April 1, 1980 cut-off date or will be returned with a request for additional information.

Any person desiring to submit a proposal on April 1, 1980, may submit a letter of intent by January 15, 1980 briefly describing (including probable funding level) the proposed project(s). This will provide NMFS with an indication of possible future funding needs.

Notice of the availability of financial assistance for fisheries development projects will also appear in the *Commerce Business Daily*.

Regional proposals should be submitted to the appropriate Region as specified below:

Northeast Region (Maine, Massachusetts, Rhode Island, Connecticut, Vermont, New Hampshire, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Indiana, Illinois, Wisconsin, Michigan, Minnesota):
Regional Director, National Marine Fisheries Service, Federal Bldg., 14 Elm Street, Gloucester, MA 01930, Phone: (617) 281-3600.

Southeast Region (North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, New Mexico, Oklahoma, Arkansas, Tennessee, Kentucky, Missouri, Kansas, Nebraska, Iowa, Puerto Rico, Virgin Islands):
Regional Director, National Marine Fisheries Service, Duval Bldg., 9450 Koger Blvd., St. Petersburg, Florida 33702, Phone (813) 893-3142.

Southwest Region (California, Hawaii, Nevada, Arizona, American Samoa, Guam, Trust Territory of Pacific Islands):
Regional Director, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731, Phone (213) 548-2575.

Northwest Region (Washington, Oregon, Idaho, Montana, Wyoming, Utah, Colorado, North Dakota, South Dakota):
Regional Director, National Marine Fisheries Service, 1700 Westlake Ave., North, Seattle, WA 98109, Phone (206) 442-7575.

Alaska Region (Alaska):
Regional Director, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802, Phone (907) 586-7221.

Proposals that do not directly address the development of a particular fishery or region of the country but do address broad national impediments to increased use of fish and fish products, industry efficiency, or consumer welfare should be sent to: Director, Office of Utilization and Development, National Marine Fisheries Service, Washington, D.C. 20235.

If an applicant is unsure who should review the proposal, it should also be sent to the above address.

Signed at Washington, D.C., this 9th day of November 1979.

Jack W. Gehringer,

Deputy Assistant Administrator for Fisheries.

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Mr. **Emery**. Do you feel that it is appropriate for the regional councils to be reviewing projects of this kind when their responsibility is not identifying projects to fund, but instead, to manage the resource?

Mr. **Leitzell**. Yes, I do, because in my view, the management activities carried on by the councils are a critical factor in whether development of the industry is in fact going to occur.

In that sense, I think it is very useful for the councils to review the projects for two reasons: One, to try to determine whether the projects would be inconsistent with management objectives that are set out in a fisheries management plan——

Mr. **Emery**. What sort of information is provided to the councils when they make these review procedures?

Mr. **Leitzell**. They are provided basically with summaries of each project, relatively abbreviated summaries.

Mr. **Emery**. Well, if they are to make an adequate review of a proposal, it seems to me they have to have a fairly large amount of information, rather than merely an outline. I have had some complaints from some of the members from New England who have commented on two points. One, they have not always felt that they have had adequate information; and two, they have been concerned that they were not given adequate information relative to the people who were involved with the projects. And in many cases, you cannot evaluate a fisheries development project without being able to evaluate the ball players on the team. Can you comment on that?

Mr. **Leitzell**. I think that is an inappropriate role for the councils. I feel they should review them to determine generally whether the projects are consistent with what they are trying to do on the management side, but I do not think it is appropriate for the councils—and we have had this disagreement with a number of councils—to review all of the specifics of the individual proposals, including who the individuals are who are intending to carry out specific projects.

I think we should review the projects on the basis of what has been submitted. The application forms require a great deal of information on the background and expertise of the individuals, and I do not think it is appropriate for one member of the industry, sitting on the Council, to be reviewing and commenting on what is personal knowledge of someone else in the industry.

Mr. **Emery**. What sorts of comments or review documents are provided from the council? What do they do? Do they merely rank them on a scale of 1 to 10, mark them A through F? Do they provide any indepth comments about the project, its viability, its cost, its compatibility with other management procedures?

Mr. **Leitzell**. It has, in fact, varied from council to council. Some of them have provided only oral comments and had discussions with our people in our regional offices. Others have provided written comments. There was a scoring process used within the Fisheries Service when we ranked the individual projects, but to the best of my knowledge, that was not used by any of the councils.

Mr. **Emery**. I must say I have some misgivings about the use of the councils for ranking and grading these projects. I am not convinced that that is a very good idea. I am not definitely opposed to it, but I have some misgivings.

It seems to me that when you divert the council's attention from its role in fisheries management and get them involved in projects that generally are small enough in scope so they do not have a major impact on fisheries conservation and management, that you are really diverting them from something that they ought to be doing, and you get them involved in the politics of someone's million-dollar project. I am not sure that that is a good policy. I just want to issue that statement, and I think we ought to discuss that a little bit—not only those of you in National Marine Fisheries, but the councils, as well. It just seems to me that that is a responsibility rather far afield from their primary responsibility.

Mr. **Leitzell**. If I could just briefly comment on that, I generally agree with you, and I think the council role has to be very limited. We did not intend for them to rank the proposals or to give us any kind of comments on the technical merits of individual proposals. I do think it useful for the councils to look at the proposals in terms of their general conservation objectives and I think it is useful for the councils to be very familiar with the needs and desires of the industry, in terms of development, so that when they are working on fisheries management plans, they will have those needs right in the front of their minds.

Mr. **Emery**. Do you feel that you give the councils an adequate opportunity to review and comment on various projects? I understand that this is usually conducted in a rather small period of time. Can you adequately rate a project if you do not have adequate time to do the research and study its implications?

Mr. **Leitzell**. I think we felt that in terms of the limited objectives of what the councils should be doing, we gave them adequate time, but frankly, we are getting comments back from the councils, and we will have to look at that in terms of the next process.

Mr. **Emery**. Are you concerned that maybe the councils ought not to be involved so much in rating a project good or bad as much as they are to rate its potential impact on the overall conservation and management program in the region?

Mr. **Leitzell**. That is exactly what we intended for them to do. We do not want them to rate or rank the projects, but only consider the impact on conservation.

Mr. **Emery**. I think there has been some industry concern that the procedure has been more involved in choosing projects that are good and bad, rather than commenting on the project as to its effect on the overall conservation and management program. But you have just stated that your interest in the council comment is to relate the project to the conservation and management program, rather than merely choose between projects that are good and bad.

Mr. **Leitzell**. That is correct. And as I said, we have had some differences with the councils as to what they wanted to do, and I think that has legitimately raised industry concerns. But our objectives are only to find out the relationship of the projects to the conservation objectives of the councils.

Mr. **Emery**. I think that is an extremely important point for you to make, because I know that many industry people in my State are concerned that you are trying to interject the council in actually picking projects and ranking them and deciding which will be funded and which are not. And I think it is extremely important if your intent is not to do that, but merely to compare the project to the management program in general, to stress that, and develop policies that will clarify that.

I do want you to comment very much on the industry review of proposals. I think the industry feels that it does not get enough input on S-K funded proposals. Could you comment on what you feel the proper role of industry should be in reviewing or encouraging or recommending various projects?

Mr. Leitzell. We have sought industry advice on development needs in regional areas, both through the regional development foundations which have been set up now in most regions of the country, and also directly.

In terms of actually reviewing the projects, I believe that the industry role should be limited very strictly only to technical expertise and technical advice of a kind that we just do not have in the Federal Government. Particularly the advice that we sought this year from the industry on the review panels was essentially whether these were reasonable commercial propositions, and whether, from a business point of view, they made sense.

I do not feel that in the expenditure of Government funds and in a situation in which proposals have been made which involve basically proprietary information in many cases, that it is appropriate for members of the public to be involved in looking at the projects and making those kinds of decisions, which are basically Government decisions. I think we do need the industry advice overall, but I think it inappropriate for the industry to deal with all of the details of the individual project proposals.

Mr. Breaux. The time of the gentleman has expired.

Mr. Emery. May I ask one last question that ties in with this?

Mr. Breaux. Final question.

Mr. Emery. Thank you very much. I will make it brief.

Nevertheless, regardless of the input from the industry review panel, the National Marine Fisheries Service is still free to make whatever recommendation it wants, regardless of any potential, conflicting recommendations from the industry review panel; am I correct?

Mr. Leitzell. Yes, that is correct. The final decisions are mine.

Mr. Emery. I would like to follow up on this at another time. I thank the Chairman for his patience.

Mr. Breaux. Mr. Hughes?

Mr. Hughes. Thank you, Mr. Chairman.

I want to thank the panel. As I understand the legislation, we would be providing some amendments to the Capital Construction Fund, for both onshore processors, as well as processing vessels. I presume that you support that particular aspect of the legislation?

Mr. Frank. No, sir, that is not correct.

Mr. Hughes. Then, am I to assume that you would support amendments to title XI, the vessel obligation guarantee, so that we can provide some assistance to those commercial enterprises that want to acquire processors to be able to compete, particularly for the underdeveloped species?

Mr. **Frank**. Our position has been contrary to both of those provisions, sir.

Mr. **Hughes**. You are just opposed to everything in the bill.

Mr. **Frank**. We are not opposed to the general objectives of this legislation, and indeed, believe that those general objectives can be achieved through policies we have already undertaken or have proposed in legislation that the administration set to Congress.

I put one caveat on that, which I think is very clear, and I would like to continue to stress. The administration's program for fishery development was put into effect before present economic circumstances developed. We may have other proposals which we may be able to implement without legislation, but we may need legislation, depending on what happens with the present economic conditions.

For example, if we talk about the issue of whether or not a vessel which may be in default on a loan which is subject to a Federal guarantee, we need to decide if the Federal Government ought to be assisting that individual. We have the capacity to do that now, and we may well be able to do that now, and will do it now, in connection with a limited number of vessels. If there are wholesale defaults, we would have a problem in terms of the amount of money available, and that may require additional legislation.

Mr. **Hughes**. One of the areas where we really have never been competitive is in the area of processing, among others. And as we try to develop more of the undeveloped, underutilized species of fish, I think there seems to be general consensus that we are going to have to get into the processing business offshore.

What is it that the administration is submitting, or what do you propose to submit, to address that particular problem? I know of industries that want to get into the processing business, but they just do not have the resources to do it.

Mr. **Frank**. If we are talking about offshore processing—for example, processing vessels, which in many fisheries would be new to the U.S. industry—we have guaranteed loans for some of those vessels, and indeed some have recently been constructed. I think one of the trends—and I cannot indicate whether it will continue because of present economic circumstances—we were seeing last year is that we were moving into new fisheries with new kinds of vessels, particularly in the Pacific Northwest.

Mr. **Hughes**. Is the vessel obligation guarantee program available to our fishermen to build processing vessels?

Mr. **Frank**. Yes, sir.

Mr. **Hughes**. Do you have any idea of how many Americans are availing themselves of that particular program now?

Mr. **Frank**. I can provide you with the number of processing vessels which are being constructed with guarantees—how many applications we have had, also.

Mr. **Breaux**. Would the gentleman yield?

Mr. **Hughes**. I would be happy to yield to the Chairman.

Mr. **Breaux**. As a note of explanation on that point, that is one of the reasons why we are amending the fishermen's loan fund, because indications are that in the shrimp industry alone, they are facing a potential $36 million worth of defaults on operators who already have guaranteed loans under that program, and I would hope to help our Government not to lose a potential $36 million of defaults under the program you just mentioned.

Mr. **Hughes**. I thank the Chairman for his contribution.

If you could supply that information to the committee, I would personally appreciate it.

Mr. **Frank**. We would be happy to, sir.

Mr. **Hughes**. Thank you. Thank you, Mr. Chairman.

[The following was received for the record:]

Statement on Options for Fishery Loan Fund

The Fishery Loan Fund (FLF) is a revolving direct loan fund first legislated in 1956. The FLF was placed under Administrative moratorium in 1973 because: (1) it had outlived its usefulness, (2) the General Accounting Office concluded that its statutory lending purposes were inconsistent with upgrading the national fishing fleet, and (3) the Fund's authorized capital was insufficient for a meaningful national program. The FLV presently has about $6 million in a Treasury account, which will revert to the Treasury's miscellaneous receipts on October 1, 1980, when the FLF's statutory authority expires. We have examined several options for the FLF, including presently reactivating it to make advances to fishermen about to default on vessel financings guaranteed under the Fishing Vessel Obligation Guarantee (FVOG) Program. We have concluded, however, that the most sensible option is to draft legislation to transfer the FLF's residual assets into the NOAA/NMFS Federal Ship Financing Fund, which is the reserve fund for the FVOG Program. This will have two beneficial results. First, it will allow the FVOG Program to continue to make the advances from its reserve fund which may be required in a significant amount if the economic crisis in the fishing industry continues to the point at which many guaranteed obligors are facing default on their guaranteed financings. Second, if the economic crisis is moderate or short, the $6 million transfer to the FVOG Program's reserve fund will provide the greater reserve needed for the FVOG Program to take greater risks in financing the construction or reconstruction of vessels to engage in domestically underutilized fisheries. Our previous intent to provide this increased FVOG Program capability is reflected in the Administration's fisheries development bill (H.R. 6311) by a provision to transfer the FLF's residual assets into the FVOG Program's reserve fund. We believe we now need a special bill to do so because of the economic crisis which has developed in the fishing industry and the imminence of reversion of the FLF's residual assets to Treasury.

NUMBER OF PROCESSING VESSELS UNDER FVOG PROGRAM

	Catchers/ processors	Processors
Approved	4	2
Pending	5	5
Total	9	7

Mr. **Breaux**. Just three quick points.

Dick, on page 13, with regard to the increase in the foreign fees, NOAA states that, "There is a question whether the United States has the authority under international law to exact what is, in effect, an economic rent for resources found within the Fishery Conservation Zone."

Assistant Secretary Pickering, in his testimony to follow yours, says, "If the Congress wishes to legislate a change of the entire basis on which fees are levied to subsidize our domestic fishing industry, we would have no objection."

And in addition to that, the latest draft of the Law of the Sea text says, "Licensing of fishermen, fishing vessels and equipment, including payment of fees and other forms of remuneration," is permitted. This has been agreed to by every country at the Law of the Sea Conference.

So I am wondering, where do we get the concern or the question with assessing fees on foreigners fishing within our zone?

Mr. **Frank**. Arguments have been made in both directions on that question——

Mr. **Breaux**. I just pointed out two of them, the State Department, and yours.

Mr. **Frank**. On which fees can be based. Perhaps we would be happy to defer to the State Department to answer that question.

Mr. **Breaux**. The State Department seems to be completely against NOAA on this point.

Mr. **Frank**. Well, I think the State Department can give you an indication of what it believes is presently international law and also what that international law is evolving to.

Mr. **Breaux**. But if they say they have no objection to it, and the Law of the Sea text says it is permitted, maybe NOAA would be willing to reconsider?

Mr. **Frank**. Yes, sir.

Mr. **Breaux**. OK. On CCF, was that NOAA's recommendation to oppose our amendments?

Mr. **Frank**. Opposition on the shoreside facility issue has been basic government policy lately; particularly, the Treasury has been concerned about changes in legislation of this nature to encompass additional facilities—in this case, shoreside facilities.

Therefore, this position is simply consistent with general administration positions on this issue.

Mr. **Breaux**. I have to believe that that policy, as you indicated just a few minutes ago, was formed prior to the economic conditions that we are facing in 1980.

On page 10 of your statement you say, with regard to extending it to shoreside facilities, "As you are aware, the administration took the position last year that such changes were premature, since the need for Federal tax relief and the benefits of the other proposed changes have not been definitely ascertained."

You continue and say that, "There is no firm evidence that credit assistance is not available for such activities without Federal guarantees." But that really does not seem to be the case. For example, the New England Fish Co. went into bankruptcy over the weekend. That was a major processing outfit. We have had staff in Alaska looking at the huge influx of foreign capital, particularly from the Japanese, into our processing industry, because fishermen and processors time after time have told us that there is simply a lack of adequate American capital.

So I disagree with your conclusion, and with the way you have arrived at it the lack of available domestic capital is a demonstrated fact. Some capital is available for harvesters, but little or none is available for processors—except from foreign sources. There is $98 million right now available in CCF, and our legislation allows for a crossover—in other words, for the harvesters to use that $98 million for the processing sector.

The last thing is the Saltonstall-Kennedy program. The President's budget shows that we have ($35.8 million available for S-K for fiscal year 1981. The recommendation in the President's budget is that $15.8 million of that be put in the general Treasury. That leaves $20 million for the general program. But if history is accurate we are going to end up with about $10 million for the industry—just half.

And I just think if we accept the administration's proposal to put S-K into the general appropriations process we are just going to come out so much worse.

Did you have a comment?

Mr. Frank. Yes, Mr. Chairman, I would like to comment on that. You asked, with respect to CCF, whether our position was established before the present economic conditions. We do not at present have adequate information leading to the conclusion that credit assistance is not available——

Mr. Breaux. Well, we need to get your staff, my staff together, staff from the Senate, and GAO—they come to exactly the contrary conclusion as to whether it is available or not.

Mr. Frank. I think these hearings can serve as a useful mechanism to establish a record one way or the other, and I think it is important to have a record. Often in the fishing industry, we have heard statements one way or the other about a whole range of activities——

Mr. Breaux. I totally agree.

Mr. Frank. And quite often, they are not supported when we look back over the facts.

I commend you for having this hearing for the purpose of establishing a record on this issue. And as I mentioned in our testimony, this position is subject to review.

With respect to Saltonstall-Kennedy, we are not happy with the situation as it exists now, where each time funds are going to be made available, they have to be allocated by OMB. And we had hoped that by going through the appropriation process, we would have more clarity as to how much money would be available, and second, Congress would have the opportunity specifically to focus on priorities and the administration's position.

We now have a number of proposals from the industry, and over the next year, perhaps, will have more. We will look at those to see whether we believe additional funds are necessary, and in part that depends on whether there are more excellent projects than there is money.

Mr. Breaux. Well, we might have a lot more clarity, but we will have a lot less money, I am afraid, if we use that approach.

Well, I appreciate your testimony. It has been a good discussion of all aspects of the legislation and the position of the administration.

I do not mean to lean too hard on you and Terry individually, because I know you are not the final arbiters of policy, that you have had to fight with OMB and with others within the Commerce Department and the administration, to formulate a policy that is affirmative and aggressive.

I just wish we could get someone in the administration, preferably at the highest policy level—maybe including the President—to realize that fishing is as important as agriculture. We just passed a multibillion dollar bill for farmers, and I represent the farmers. But we have got to have a government that puts the fishing industry on the same plane of importance as agriculture. It is a tremendous source of foods and income. And only after we get across that hurdle are we going to be able to come up with some aggressive, positive programs.

I thank you for your appearance, and we will continue to work with your people.

Mr. **Frank**. Thank you.

Mr. **Breaux**. We would now like to welcome up Assistant Secretary Tom Pickering, who is Assistant Secretary of State for the Bureau of Oceans and International Environmental and Scientific Affairs, of the Department of State.

Mr. Pickering, we welcome you and ask that you bring up any colleagues that you would like to accompany you.

TESTIMONY OF THOMAS R. PICKERING, ASSISTANT SECRETARY, BUREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS, DEPARTMENT OF STATE, ACCOMPANIED BY DON YEOMAN, OFFICE OF FISHERIES AFFAIRS

Mr. **Pickering**. Thank you, Mr. Chairman.

I am accompanied by Don Yeoman, of the Office of Fisheries Affairs with the State Department.

I would like to thank you and the members of the committee for the opportunity to testify today on H.R. 7039, the American Fisheries Promotion Act.

Mr. Chairman, the Department of State wholeheartedly agreeds with and supports the objective of development of the U.S. fishing industry, particularly the export segment of that industry.

We generally support the concepts contained in this legislation, although we are concerned that some provisions of the bill could in fact work against the goal of developing the U.S. fishing industry to a position of world leadership. I will comment in my testimony on those issues of most interest to the Department of State.

The legislative phaseout of foreign fishing contained in section 301 of the bill is of most concern to us. We are puzzled at the relationship between the mandated elimination of foreign fishing and the language of part (6)(f) at the end of the section, which would make consideration of foreign tariff and nontariff barriers to U.S. fishery imports a criterion for granting allocations off our coasts.

There appears to be an inconsistency between using allocations as a tool to obtain and to hold the foreign markets vital to our fishery export development, while at the same time mandating that foreign fishermen must be out of our fishery zone within 5 years.

World competition in fishery exports is keen, and it does not seem reasonable now to announce the withdrawal of one of our best bargaining chips from the negotiating table.

Foreign nations give great importance to the prospects for long-term arrangements with the United States in the field of fisheries. We cannot expect them to liberalize the terms of trade, often requiring some sacrifice on the part of their own domestic fishing industries, unless we can offer something in return.

In fact, Mr. Chairman, as you know, a phaseout of foreign fishing is built into the Fishery Conservation and Management Act of 1976 as it is currently drafted. American fishermen are given an absolute preference to all stocks over which we have jurisdiction. The determination of optimum yield, U.S. harvesting capacity, and the consequent residual amounts available for allocation to foreign nations, are made by the regional fishery management councils, in consultation with the U.S. fishing industry.

The needs and plans of the U.S. industry are carefully considered in this process, and it does not appear to us that the result has been prejudicial to the expansion of U.S. fisheries.

The Department of State recognizes that the international marketplace sometimes works to the disadvantage of our American industry We are determined to overcome this, and I can assure you that we are already taking steps to place our industry in a more favorable position.

Nothing would please me more than for U.S. fishermen and U.S. processors to harvest and process all of the tremendous fishery resources off our own coasts, either for domestic consumption or export. That is a goal which the Department fully supports. It cannot, obviously, happen overnight, however, and in the interim, we should use our control of the resources to our advantage.

We recognize and applaud the considerable progress that has been made by the U.S. fishing industry since the passage of the FCMA. Although it may not have been as rapid as we would have liked, we are particularly pleased at the development of the joint ventures that are already providing significantly expanded opportunities for our fishermen to harvest and market underutilized species.

But investments and increased efforts of our fishermen have still been concentrated in the traditional high value species To encourage American exploitation of the lower value, high volume species will require some foreign technological assistance, perhaps foreign capital, and above all, assured markets.

Throughout the first months of 1980, we have been engaged in continuous consultation with the Department of Commerce, the regional councils, and the fishing industry in efforts to find ways to increase our fishery exports. We are now on the verge of reallocating the quota withheld from the Soviet Union, and the allocations will be dictated to a large degree by these considerations.

It is our plan to shift our allocation policy in the direction of using allocations to improve and expand trade in fish.

The phaseout of foreign fishing proposed by the section would seriously jeopardize our ability to use this approach over the longer term. It is not out of the question that cuts in foreign allocations might then result in tightening the access of U.S. fish exports to foreign markets, the reverse of the intention we hope to achieve.

Turning to foreign fishing fees, we have no objection to a review and update of foreign fishing fees to bring them into line with market values, and in fact, we are currently engaged with the National Marine Fisheries Service in a study of the fee structure to accomplish this.

As you know, the original basis for which fees were levied was to insure foreign compensation for the costs associated with conserving and managing the resources. If the Congress wishes to legislate a change of the entire basis on which fees are levied to subsidize our domestic fishing industry, we would have no objection.

I must also indicate to you that in accordance with well-established administration policy, we believe that receipts of this nature should continue to go into the general funds of the Treasury, and programs to encourage U.S. fisheries development should be the subject of specific appropriations.

Mr. Chairman, we fully support the observer program, and have always insisted on the cooperation of foreign fishing vessels with the observers and their objectives. We believe, however, that observer coverage should be tailored to the requirements of each fishery. Experience has shown that some fisheries and areas cause few problems, while others could benefit from increased coverage. We believe, for example, that placing observers on vessels merely cruising from one location to another is a poor and possibly very inefficient use of observer time. We are also concerned that this provision would apparently apply to foreign longline tuna vessels, and thus would further undercut our international position on the management of highly migratory species.

The current voluntary program of observers aboard such vessels appears to be adequate and working well.

It is our view that the most expeditious and efficient way to increase fisheries trade promotion activity would be to utilize the commercial attachés of the newly created Foreign Commercial Service of the Department of Commerce. In fact, we believe that officers of this Service should be specifically instructed to give this activity high priority all over the world. These officers are already in place, and have the support staffs to carry out their job. We view the functions of fisheries attachés in a broader context. They must be first of all negotiators and reporters, as well as salesmen. They must be able to bring to fisheries issues a keen understanding of national policy in the countries in which they serve.

We have found the two attachés which we currently have in Tokyo and Japan and in Mexico City to be invaluable in the complex fishery relations which we have with these countries and which extend well beyond merely the question of trade and export promotion. We support as well the idea that we should have more specialized individuals dealing with all international aspects of our fisheries relationships.

We are carefully looking at the possibilities of establishing a limited number of additional fishery attaché positions in other key capitol cities, and in this, we follow many of the same capitols mentioned in your legislation.

We would oppose modifying the fishery attaché function in ways which would restrict their flexibility.

Finally, there are other officers in a number of our embassies where we have no fishery attachés, who spend some and indeed, in many cases, a significant portion of their time on fisheries issues. It would be useful to have all of these officers part of the same service to promote training and the flow of information.

We support the use of the criterion regarding the elimination of trade barriers to U.S. fishery exports as a consideration in allocations, although in fact this is a criteria which can be employed under the existing authority of the FCMA.

As I have pointed out, however, continued use of this strategy will be gradually undermined if coupled with a phaseout in foreign fishing.

We defer to the Department of Commerce for comment on those portions of the bill that do not relate directly to foreign fishing relations.

Thank you, Mr. Chairman. I would be pleased to answer any questions you or the committee might have for me.

Mr. **Breaux**. Thank you, Mr. Secretary, for your statement on behalf of the State Department.

Let us start with the point that I raised with Mr. Frank, regarding the policy on fees on the foreign fishermen. On page 4, you say you have no objection to my fee proposal. Is it, in fact, consistent with what we have developed so far in international law, at the Law of the Sea Conference?

Mr. **Pickering**. We believe it is consistent, and, as I said in the prepared statement, do not have any objection.

Mr. **Breaux**. Isn't it a fact that the fees that we are charged by some foreign countries for our "right to fish" within their zone is in fact a great deal higher than we are charging foreigners who fish within our zone at the present time?

Mr. **Pickering**. From the calculations that I know about—many of which I think are contained in a statement that you issued when you introduced the legislation—that would certainly seem to be the case.

Mr. **Breaux**. We are suggesting a 10-percent ex-vessel charge for foreign fishermen within our zone. Would that be fairly consistent with what other nations are charging—not only the United States, but other fishing fleets—to fish within their zone?

Mr. **Pickering**. Mr. Chairman, I have not calculated that out, and I would prefer to do that before trying to answer your question. The subject is a fairly complicated one, and I think we would have to go into a great deal more of the statistical background to give you an answer.

Mr. **Breaux**. But there is no question that as a general rule, the fees we are now charging are certainly a great deal less than we have to pay in foreign zones that we are fishing in at the present time.

Mr. **Pickering**. Without gainsaying your conclusions, I would feel on firmer ground if we took a look at that across the board and made statements then about what the general rule is. I think there is no question that in some cases, those fishery fees are higher than the ones that we charge, and you made that clear in your statement, and I have no reason to object to that point.

But I think the question is as of a general rule, we would want to look at that further.

Mr. **Breaux**. OK. On the question of foreign attachés, you stress the Department of Commerce's newly created Foreign Commercial Service. I think what the committee bill is trying to do is to say that in the principal capitals of the world where we are involved in selling fish, that we have someone over there who acts as a fish salesman on behalf of the United States.

Now, do you have any problems with the person who is the fishery attaché being a fisheries expert on the promotion of foreign sales and having someone else, perhaps, have the final say-so as to the political and international implications. The person who is in charge of the fisheries sales should, I think, be a fish expert.

Mr. **PICKERING**. Mr. Chairman, that is exactly the reason why we suggested that the new commercial service, which is designed to promote U.S. trade and exports in every conceivable way, take this particular job on. If commercial service people now are not sufficiently expert to be able to do the job of selling fish, then that commercial service ought to look at it.

We recognize the priority you have given. We think it is an important priority. After all, we have been out in the last 6 months, negotiating, around the world, to open foreign markets to our fish, and that is a job which we think ought to be performed in the context of the commercial service and within the Department of Commerce.

Now, if we move over to the other side, we also have a very important job to be done in negotiating fisheries arrangements at high levels within the governments. That, we think, should be a different kind of a fish expert, a guy who is familiar as well with what the political problems are in that country and how they affect that country's attitudes toward fisheries agreements with the United States. At someplace, those two fellows have to get together, because a lot of high level policy concerns also relate to how we open up markets. That is, there are the governmental impositions of barriers to markets, and as well, there are commercial reluctances to take our fish.

Mr. **BREAUX**. But you do not have any problems apparently with the concept you are enunciating right now, that there be two positions—one dealing strictly with the promotion of fish products from the United States, and another to worry about the international implications of whether we sell or buy from that country.

Mr. **PICKERING**. No. Indeed, I hope my testimony made clear that we were in favor of those two approaches.

Mr. **BREAUX**. OK. What your testimony did not make clear is the position on the TALFF being tied to trade barriers being reduced with the foreign countries, and I am really trying to find out a definitive position of the State Department with regard to that position. I think your testimony kind of waffles on it. Do you or do you not support a specific, statutory statement bv the Congress that trade barriers and TALFF allocations to foreign countries ought to be related and tied together?

Mr. **PICKERING**. Our view on that is that it is unnecessary since it is already within the law.

Mr. **BREAUX**. It is not being utilized. We are trying to make it work.

Mr. **PICKERING**. We are utilizing it. I think that we have had sufficient prodding in terms of utilizing it that we do not need an additional reinforcement in legislation. I think it is going ahead now with full steam.

Mr. **BREAUX**. OK. For instance, what have we got for the withholding of the 40,000 tons from Japan?

Mr. **PICKERING**. At the moment, we have got nothing.

Mr. **Breaux**. You see, that is why it gives me a little bit of concern about your statement.

Mr. **Pickering**. Yes, but we are continuing to discuss this with the Japanese. The lines are open, and the Japanese and we consider this an important enough issue to continue the process. I do not believe the last word is in.

Mr. **Breaux**. Well, would the State Department consider additional cuts, because 40,000 out of 1 million tons surplus is really not that significant. If they do not come around with any positive proposals, are we in a position to consider additional steps with regard to the TALFF.

Mr. **Pickering**. In words of one syllable, yes.

Mr. **Breaux**. What about the hake that we withheld from the Soviets this year; what is the State Department's plan to do with that?

Mr. **Pickering**. As I indicated to you, we are currently about to produce the results of that allocation process. We would be very glad to consult with you and other interested Members before we produce a public statement on that, to give you an indication of where we are going.

Mr. **Breaux**. What is your time frame?

Mr. **Pickering**. I would say in the next 2 or 3 weeks, we should probably have some results coming out, and we would be delighted to be in touch with you on that.

Mr. **Breaux**. We have tried to make very clear that the phaseout of foreign fishing within the U.S. zone in this legislation is clearly linked to the surplus and the ability of the U.S. fishing industry to take up that surplus. We have given them a definitive goal, and we say, "If you are able to completely utilize our fish within that time period, then the fish shall be for America's use." It is clearly tied to surplus.

Yet we as a government, with regard to the Mexican Gulf shrimp phaseout, accepted Mexico's position and that was a complete, absolute, 100-percent phaseout of all U.S. shrimp fishing within the Mexican zone, having nothing to do with their ability to pick up the surplus. And it is not even a figment of anyone's imagination that the Mexicans are able to take all the shrimp within their 200-mile zone. And yet we accepted that. Now, I have a feeling that the State Department is opposing our phaseout of foreign fishermen, which is clearly tied to the ability of our fishermen to take the surplus. What is the consistency of that?

Mr. **Pickering**. There are a couple of points here. First, the State Department supports the phaseout as embodied in the FCMA. There is no question about that. I do not think that point is debatable or arguable, at least from the point of view of our commitment on that side.

Second, with respect to Mexico, as you know, we worked very, very hard to get them to consider the surplus. We were not successful in doing so. That does not mean that we are any happier with the results. And I would say that we are being miscast as having accepted that. Now, there is a point beyond which you can do nothing more in international negotiations when a state is managing a resource within its own economic zone. We are not happy with that particular approach. Nevertheless, we exhausted all of our efforts and negotiating skills and leverage and were unable to change it.

We would, I think, perhaps disagree with you in the notion of the bill setting a particularly expedited schedule for phase-out because we think it is inconsistent with what we were just talking about—the use of fishery resources and allocations to open up markets. And here, it is an important question.

If we begin to use fishery resources, as we are now doing, with the urging of this committee and you, Mr. Chairman, to do that, we may well be in a position in the future where, when we cut those allocations down, we will see retribution on the market side. We have to look at this as a two-sided venture. In international affairs, the reciprocity very often applies.

I think as we open up these particular markets, we need to think about the longer term and the interrelationships between expanding our own fishery industry here and the foreign markets, particularly in terms of the underutilized species. That is the reason for our approach here.

Mr. **Breaux**. OK. Let me give you some examples of what happened with Mexico. They phased us out very rapidly, with no semblance of it being tied to their ability to take the shrimp within their zone. Two things have happened. The Cubans are about to participate in joint ventures with the Mexicans to get the shrimp. Another point is that the United States is continuing to import 50 percent of our total shrimp consumption from Mexico. They have not lost their markets by phasing us out of theirs, and the reason is quite simple: We need those fish products.

Now, why wouldn't that same thing happen with regard to a phaseout of foreign fishermen from our waters? They would need our product. They would be encouraged to participate in joint ventures, and if they needed the fish, they would continue to buy the fish.

Mr. **Pickering**. I think a lot of it has to do with the species that we are dealing with. The underutilized fishery species, I think the market tends to be a little more soft. On the other hand, if we can develop the capacity to harvest those species, and if we can move into joint ventures, I think we can protect our markets.

What I am talking about is the mandated 5-year phaseout as a general objective. I recognize, however, as you made clear just a minute ago, that you look at that as an objective, not as necessarily an absolutely guiding fact of the law, and that there will be opportunities, if there are surpluses, for continuing foreign fishing.

Mr. **Breaux**. I would remind State of the same thing I did with NOAA, of their firm opposition to FCMA's initial passage in the beginning. One of the problems with the FCMA is that it really is again the chicken or the egg situation insofar as the foreigners will not be phased out as long as our domestic industry is not able to advance to the point of taking away the surplus. Unless there is a scheduled phaseout, we are not going to be able to provide the capital and economic stability to allow our fishing industry to advance.

Mr. Forsythe.

Mr. **Pickering**. Could I make one comment on that, Mr. Chairman?

Mr. **Breaux**. Surely.

Mr. **Pickering**. I think the question is chicken or the egg and it may be the different side of the table you sit on as you see where the chicken and where the egg rests here.

But it seems to me that when our fishermen have in effect absolute control over the determination of what they are going to harvest, this is a very important leg up in the whole process. This ought to be, at least sitting where I sit, a sufficient beginning point to mobilize the kind of capital, to mobilize the efforts toward expansion. After all, there is no foreign fisherman who is sitting there determining how much the U.S. fishermen will catch. It is quite the other way around. And I believe that is an important difference and an important change the FCMA brought about here.

Mr. **Breaux**. Well, the total amount of fish harvested within our zone is really a lot less than when we passed the Act. Our share is only one-third of the total amount that is being caught. A great deal of progress has not been made toward the final goal, in the absence of some definitive dates for a phaseout of foreign fishing. Perhaps there should always be a foreign presence within our zone, because of the type of fish that are being caught by the foreigners. I am not against it per se. But our fishermen should have the opportunity to take all the fish in our zone.

Mr. Forsythe.

Mr. **Forsythe**. Thank you, Mr. Chairman.

Thank you, Mr. Secretary I share the chairman's concern, and having lived through the pains of trying to enact FCMA, and realizing that there was an ingrown opposition to that legislation, I can say there has been improvement, but I guess it is a question of patience. It depends on what kind of glasses you are wearing as to how you perceive these things.

We have got to constantly find ways to speed up the goals that you say are already in the legislation. It is true that today, they are voluntary in some areas. I commend you on your position on the fees, because from the beginning, I was very disappointed because I thought the State Department was trying to be too soft. I think that was a fair criticism, and hopefully, we are moving closer together.

Now, you state in your statement on page 3 that you have been, in the first months of 1980, engaged in continuous consultation with the Department of Commerce and the regional councils of the fishing industry in efforts to find ways to increase our fishery exports. You state, "We are now about to reallocate the quota within the Soviet Union, and the allocations are dictated to a large degree by these considerations."

I am informed that those councils intimately involved in this—the Pacific and North Pacific councils—do not feel they have had a part to play, and that there has not been consultation vis-a-vis the reallocation of the Russian quota.

Mr. **Pickering**. I am disappointed to hear that, Mr. Forsythe. My deputy just spent several days, along with Mr. Leitzell, with the Northwest councils, and if there are still a series of specific concerns, I hope we can arrange to alleviate those and increase the intensity of the consultation we have already had.

Mr. **Forsythe**. I have just been informed that specific allocations for cod for both Japan and Russia, Spain and Germany, were announced without the councils being aware of it, on April 18.

Mr. **Pickering**. No such allocations have been announced, Mr. Forsythe. That may be——

Mr. **Forsythe**. Somebody is reading your mail before it gets delivered.

Mr. **Pickering**. We write it, I hope.

Mr. **Forsythe**. Well, let us get to you specific facts on the complaints in this situation, and I would very much appreciate your response.

Mr. **Pickering**. I would be very grateful to have it, because we are determined to have some consultation.

Mr. **Forsythe**. This problem pops up here and there, I recall we have had it with the New England and Mid-Atlantic councils. I do not know—maybe you are not really talking the same language somehow or other, so there is not an understanding between the Department and the council. But it is that kind of thing that creates continuing problems as far as this committee is concerned.

I do not think any of us were fooled that we had solved all the problems when the FCMA was signed into law. We knew we had a hard road to follow. That is why the committee has maintained a very heavy oversight interest.

I also am concerned on the problem of how we can better use TALFF in terms of this market barrier problem. I recognize the risks involved, but the risks have been loaded against the American fisherman in the past, and that is why we are dealing with it in this legislation.

As I did say once before, I think this is something that the agencies are going to have to live with. Congress is going to look at legislation to try and be more specific in what we think we mean to do. There may be problems for both of them, but I hope that there can be some support and statements that say "We support your goal, but we do not like any of the roads you are taking."

Thank you, and thank you, Mr. Chairman.

Mr. **Breaux**. Mr. AuCoin.

Mr. **AuCoin**. Thank you, Mr. Chairman. Mr. Chairman, I want to associate myself with many of the remarks I heard you make after coming to the hearing somewhat late. I am sorry that my schedule kept me from being here at the beginning of this meeting, but I want to compliment the chairman in the development of this legislation and strongly identify and associate myself with not only the legislation but the clear thrust that the chairman has in promoting it.

With regard to the point that Mr. Forsythe just made, it has been called to my attention that Mr. Leitzell and Mr. Buzbee, on April 18, at a convention of the National Fisheries Institute here in Washington, D.C., made the announcement that there would be an allocation of cod off the coast of Alaska to Spain. That was on April 18 of this year, in this city, and it came as a complete surprise to the management council.

Does that specificity help the witness understand exactly what was said?

Mr. PICKERING. Mr. AuCoin, I was not present there. They may have been talking in a consultative mood. We had not made such allocations. I think they were trying to indicate the direction in which allocations were going, in order to stimulate some kind of consultation.

Mr. AUCOIN. Well, is it your feeling, then, that this allocation is just a question of timing; it is one that may occur in the not-too-distant future—or will not occur at all?

Mr. PICKERING. Before you came in, I believe I remarked to the chairman in answer to a question of his, that we expected to move ahead, as my statement said, with allocations. And he asked me about the timing and I said I hope that within the next 2 or 3 weeks, we would be making allocations.

We do intend to move ahead with allocating the fish that has not been allocated to the Soviet Union this year.

Mr. AUCOIN. And the management councils are going to be told about this after——

Mr. PICKERING. No. We have been discussing it with the management councils. I believe there was some concern that we had not discussed it enough, and we will try to rectify that.

Mr. AUCOIN. It sounds to me like there were plans that were pretty well-rooted, as of at least April 18, that were a complete surprise as of that date to the management councils. That raises, I think, significant questions Mr. Forsythe was getting at

Mr. PICKERING. Well, I was not present on April 18, so I do not know what was said. I do know that the Northwest management councils were talked to. I cannot fix the date, but it seems to me that it was before the 18th, on the west coast, and the individuals you referred to were there and discussed it with them at that time.

Mr. AUCOIN. As of the 18, they were not informed, according to the information that I have.

But it is not my purpose, Mr. Chairman, to prolong this particular——

Mr. PICKERING. Well, I will try to clarify the record, if that would be useful, and let you and the chairman know——

Mr. AUCOIN. Well, I think it would be interesting to know just how meaningful the management councils are in terms of consultation on questions of this kind. I think that would be interesting for the committee to know.

Mr. Chairman, I know that you are pressed for time. That I would like to do, if I may, is ask unanimous consent to have a statement of my own submitted for the committee's record.

Mr. BREAUX. Without objection, the statement will be submitted, and the work of the gentleman from Oregon will be noted for the record.

[The following was received for the record:]

STATEMENT OF HON. LES AUCOIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON

Mr. Chairman, I am extremely pleased that this committee is taking a serious look at comprehensive legislation to revive our drowning fishing industry.

This is an industry that has been ignored too long. Ignored for what it has been, ignored for what is is and ignored for what it can be.

The fishing industry has always been important to America, providing valuable foodstuff and other products. Today, the fishing industry represents the hub of commerce in rural areas on our nation's vast coastline. In addition to providing livelihoods, fishing also sustains a way of life that is important for America to preserve.

Despite its important role today, fishing could be and should be making an even greater contribution. We live in a world where people are starving by the millions. Fish could help feed those people. Even in our own backyard, we have Americans whose diets are dangerously deficient. To them, fish offer a source of life-enriching protein.

The need to promote the fishing industry is obvious, yet we have dawdled in stepping forward to provide the necessary assistance in a comprehensive manner.

Our neglect and our cavalier attitude toward the fishing industry have now put us at the brink. The U.S. fishing industry—particularly the seafood processing segment—is in serious trouble.

In my Congressional District alone, four or five processors are about to sink. One already has.

New England Fish Co., considered in our region as one of the most stable seafood processors, has declared bankruptcy and closed its doors on operations in Oregon, Washington and Alaska.

In Oregon, New England operated two plants, with an annual payroll of about $1.8 million and supporting 50 fishing boats. Both plants were the major employers in the two small coastal cities in which they were located. The jobless rate in those two communities is grim. Difficult choices face unemployed workers, many of whom have done nothing else in their life but work in the fishing industry. Some will hire on elsewhere with other processors. But many will be forced to abandon their trade, their city and their way of life.

This is the kind of economic and social devastation we are facing. The problem is this kind of devastation doesn't merit national concern, as the plight of Chrysler did. The truth is this kind of devastation should worry us more than Chrysler.

As a member of the House Banking Committee, I fought the bailout of Chrysler because it set a bad precedent of propping up a company whose products had been rejected in the marketplace. That is not the problem of the U.S. fishing industry.

The fishing industry is under-capitalized, fragmented and non-market oriented. It hasn't been rejected in the marketplace—it has never got its product to the marketplace.

And that's why H.R. 7039, the American Fisheries Promotion Act, is so desperately needed. The Oregon coast doesn't want a bailout. The coast wants a chance.

Since coming to Congress, I have made fisheries development a major priority. Two of my legislative proposals are mirrored in H.R. 7039's provisions to extend the Capital Construction Fund and Obligation Loan Guarantees to seafood processing facilities. Enactment of these provisions is essential if Congress is sincere in its desire to keep U.S. seafood processors, both small and large, in operation. We can't hope to build up to full use of our resources in the 200-mile zone if we don't have processors on line to bring the fish to market.

Marketing of seafood products is yet another area where this bill takes direct aim—especially marketing to other countries. In 1979, the U.S. imported almost $4 billion of fish products, while exporting only about $1 billion—even though one-fifth of the world's commercially harvestable fisheries resources are found in waters off the United States. We've got to turn this situation around.

H.R. 7039 attacks this problem head-on. It attacks the trade barriers that foreign countries have erected by denying or cutting back on allocations of our surplus fish to countries that unduly restrict importation of U.S. fish and fish products. And it mandates the appointment of additional fisheries attaches.

Foreign fishing is another problem. Foreign fishing vessels interfere with U.S. boats. Foreign fishing vessels interfere with U.S. gear. In the last year Oregon black cod fishermen have filed 33 claims for loss of pots and longlines—some reporting as many as seven separate incidents on a single claim. Foreign fishermen take a significant number of fish other than those they're licensed to catch under their so-called "incidental take."

As a nation we are committed to full use of our ocean resources and to having U.S. fishermen harvest these resources. I have previously indicated my support for a phase-out of foreign fishing and for a 100 percent observer program until that time, and I repeat that commitment again today.

Harvesting of all our offshore fisheries resources by U.S. fishermen is the objective of the Fishery Conservation and Management Act. This goal presumes that sound management will determine harvesting efforts. But sound management is impossible without sound data. A 100 percent observer program is a necessary step in the direction of building our data base. And it's a step toward insuring full enforcement and proper compliance.

I've told that to NOAA Administrator Richard Frank, and I've heard it from a frustrated Pacific Fishery Management Council—not to mention angry and frustrated fishermen. I'm pleased to see this program is an integral part of any Act claiming honestly to promote American fisheries.

Many other provisions of H.R. 7039 are important, timely, and meritorious. Especially I note the emphasis placed on fishing vessel loans, fisheries development, fuel efficiency, and fish quality.

Fuel efficiency in particular deserves special note. Fuel costs are soaring. In many cases fuel now approaches half the cost of operating a fishing boat. That's why I'm glad to see language instructing approval of one or more Saltonstall-Kennedy projects designed to improve fuel efficiency in the industry.

The American Fisheries Promotion Act reaffirms the federal commitment to improve a much needed industry. H.R. 7039 can develop the markets for Americans to enjoy the fisheries products off our shores that other nations now consume. If we intend to harness the wealth of underutilized species for the American diet—species that compose 90 percent of the foreign catch in our 200-mile zone—we've got to demonstrate that intent in a strong fisheries policy, one H.R. 7039 will dictate.

I wholeheartedly endorse the concepts contained in this bill. As we proceed, additional refining will be necessary. But let us not lose sight of the urgency of the situation.

The American fishing industry is in its eleventh hour. Indeed it may already be a minute before midnight. We must move quickly and forcefully.

I wish us all success in our endeavors. The future of America's first industry is at stake.

Mr. **Breaux**. Mr. Anderson?

Mr. **Anderson**. Thank you, Mr. Chairman.

I would like to associate myself with the remarks of the Chairman, and I have no questions.

Mr. **Breaux**. Mr. Oberstar?

Mr. **Oberstar**. No questions, Mr. Chairman. I do want to thank the Chairman for holding these hearings and raising this issue. I concur in the Chair's astonishment at the parade of administration witnesses who concur in the objective of the legislation but object to everything that makes it take hold.

Mr. **Breaux**. Are you suggesting that we go ahead and vote right now?

Mr. **Oberstar**. I think it would probably be a very good idea, Mr. Chairman.

Mr. **Breaux**. I thank the gentleman.

Tom, the committee appreciates your appearance on behalf of the State Department. I think I note a sense of cooperation, after we get past some of the written words, on the legislation, and we look forward to working with you and also your associates, in developing a bill that we all can support.

Thank you very much.

Mr. **Pickering**. Thank you, Mr. Chairman.

Mr. **Breaux**. Our final panel of witnesses today will include Mr. Harold Sparck, who is a representative of the Bering Sea Fisheries Association, and Mr. Tony Smith, who is an attorney and representative for the Aleut Corp. and the Pribiloff Island fishermen.

Gentlemen, we welcome you. Mr. Smith, why don't we go ahead and start with you.

TESTIMONY OF A PANEL INCLUDING TONY SMITH, ATTORNEY AT LAW, REPRESENTATIVE OF THE ALEUT CORP. AND THE PRIBILOFF ISLANDS FISHERMEN; AND HAROLD SPARCK, REPRESENTATIVE OF THE BERING SEA FISHERIES ASSOCIATION

Mr. **Smith**. Thank you, Mr. Chairman.

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I see that we are rapidly running out of time, so what I would like to do is ask that my statement be submitted, and then I will make some brief comments.

Mr. **Breaux**. Without objection, your entire statement will be made a part of our record at this time.

[The following was received for the record.]

Statement of John Anthony (Tony) Smith on Behalf of the Aleut Corp. and the Tanadgusix Corp.

I am a partner in the law firm of Smith & Greening in Anchorage, Alaska. My firm represents the Aleut Corporation and the Tanadgusix Corporations. The Aleut Corporation is the Regional Corporation, established by the Alaska Native Claims Settlement Act for the Aleuts on the Aleutian Chain. It has 3,300 shareholders, all who are Aleuts. The Tanadgusix Corporation is the Alaska Native Claim Settlement Act Corporation for the village of St. Paul Island. My law firm also represents numerous other villages in Bristol Bay and on the Aleutians. We are, heavily involved in representing Alaska Fishing interest.

Conceptually, we support HR 7039. The goal of Americans benefiting from America's bountiful Fisheries Resource is commendable. Certainly phasing out the foreign fleets annual take will allow the American fishing industry to fill the gap. There is no question that the product is needed on the domestic and world market.

Specifically we have some problems with HR 7039 as drafted.

In the first place, it does not make provision for the development of a localized fishery. The Danes in the Faroe Islands and Greenland have created localized zones for a small boat fishery which is extremely successful. While HR 7039 assumes that bigger is better, the Danish experience indicates that there is room for a small boat, localized fishery. The towns in the Faroe Islands and Greenland are economically sound and stable. The local fisherman earns an excellent living in addition to harvesting a substantial resource. The village life style is preserved and the entire ecosystem is well served.

My experience, and the Aleut's experience, indicates that the large boat fishery is a difficult and risk-filled enterprise. The Aleut Corporation owns and fishes two 120 ft. modern combination vessels. The Aleut Princess and the Aleut Bride. While these vessels have been profitable, there have been real problems in maintaining a competent captain and crew, without turning to foreigners. This country does not have, in the last 100 years, a maritime tradition. While the Scandanavians, the Russians, the Koreans and the Japanese expect to spend 10 to 12 months at sea, the Alaskan fisherman expects to spend time at home. Thus the Aleut Corporation has found that its skippers and crew want to stop fishing once they have made a decent wage.

In addition, fuel prices increase the economic viability of a localized fishery where the run to the grounds is not as extensive. Not only is the village life style enhanced but a robust local fishery insures a competent crew, a large catch and economically viable towns along Alaska's vast coastline. It also insures that the people who reside on the lands adjoining Alaska's waters will be able to control their destiny.

We also see problems with the limitation on foreign involvement in the processing side of the equation. At present the foreigners are technologically way ahead of the Americans. To limit their involvement may create a problem as to markets for the fisherman. It also limits the availability of the technology needed to truly develop this country's fisheries.

My clients would of course like to see the day where the fisheries resource was American owned and controlled, but we don't believe that realistically that day is today. Certainly to limit the availability of foreign technology at the processing level will not speed the process. Unless the fishermen have strong markets, the desired result of an American Fishery will be delayed. Only when our American Fisherman is assured a return for his efforts, commensurate with the quality and quantity of those efforts, will we see the development we all desire.

We would therefore prefer that this committee fully analyze the limitations on foreign ownership of the processing link in the chain. We fear that the bill as drafted will result in technological and market limitations which will in the end impede the desired result.

In conclusion, my clients are conceptually strongly in favor of HR 7039. We feel the legislation needs to be flushed out. There should be a concentrated effort to develop a localized fishery and the Danish example is at hand. We also feel that the subcommittee needs to analyze the processing link carefully to insure that the result of the bill's passage is to improve the fisherman's market rather than to weaken it. For too long the American government has been more interested in Detroit's automobiles at the expense of one of this country's most important renewable resources, our fisheries. We, of course, hope that you would hold hearings on this matter of great concern to Alaskans in the fishing communities in Alaska.

Thank you.

Mr. **Smith**. Thank you. I also, Mr. Chairman, might compliment your staff. As you know, I was down with some of the people from the Aleut Corp. for the hearings on 533 and was up in New York on some business, and they made arrangements for me to testify on my way back, to save my clients some money. I certainly appreciate the accommodations of the staff.

Mr. **Breaux**. Thank you.

Mr. **Smith**. The gist of our testimony, Mr. Chairman, is we feel that the bill should specifically—at least in one section—direct attention toward the development of a localized fishery.

The Danes, for example, have developed a very successful local fishery in the Farrell Islands and in Greenland, which allows the villages and the people who live on the islands and in Greenland to reap some of the benefits of the development of their offshore fishery.

At present, my clients are working with NOAA in attempting to obtain funds to develop a localized fishery, and thus far, although the door has not been shut, we have not been really that successful. There is a bias at present, at least from what we can see, toward the concept that bigger is better, and that what we really need is the big ocean trawler. Now, the Aleut Corp. does own and fish two 110-foot combination vessels in the Bering Sea, the *Aleut Pride* and the *Aleut Princess*—unfortunately, one of them had a mishap and will not be fishing this year—but they have over the years fished them. And we found, among other things, in Alaska that we had some difficulties in maintaining competent crews on our vessels during the season. As a result of the crab prices and the high unit cost and low volume stock, that tends to be overfished if anything, that the people made so much money they wanted to tie the boat up and go home.

And I know that one of the concerns of this committee and one of the concerns that has been manifested by a number of people involved in the fisheries is the development of the underutilized stock, specifically in the North Pacific and the Bering Sea. And we feel that a localized fishery that allows some of these stocks to be harvested, for instance, around the Pribiloff Islands, on a day fishery basis is needed. I guess in a sense, it flies in the face of some of our technological advances, but on the other hand, with the increasing cost of energy, the fact that the people live there, and with the unit prices paid, our analysis shows that it can be a very economical fishery.

While we certainly support H.R. 7039 and the concepts that are set forth in it, and commend you, Mr. Chairman, for advancing this legislation, we would like to see a section specifically developed and aimed toward the localized fishery.

We also are somewhat concerned about the requirement, while you have made provisions in the bill to provide financing and debt moneys so that our processing capacities and capabilities can be upgraded, that 75 percent of the companies be American owned. In our experience, we are presently developing out in the Aleutians a model fishing village with Danish consultants and some American consultants and the State of Alaska participating, and it will be a principally bottomfish processing town, from scratch. And we are finding that we need to go to Denmark to find the technology to in fact make it economical. The technology is not extant presently in the United States for the type of facility that we would like to develop there. Icicle Seafoods and some of the companies—New England before their announcement last weekend—had done some experimental fishing in the bottom fisheries, and were moving, kind of getting their feet wet, so to speak.

But as far as getting into processing economically and efficiently, particularly in the underutilized species that everyone talks about the American fishermen reaping the rewards of, you tend to have to go outside the United States. And the problem with the Japanese, I think, is as much the fishermen's and the processors' doing as anyone else's. They were there, they paid higher prices than the Seattle companies did, and everybody ran to Japan, and they do, in our experience, utilize predatory practices, and once they got the fishing control of the product, the prices went down, and we all saw that last year.

But we are trying to use Danish technology, and some of the Europeean countries that are active in fishing, to increase the processing end so that the fishermen will realize the benefit.

I think, Mr. Chairman, that if you are going to develop fisheries in the Bering Sea and the North Pacific, the processing end must be strong, because the risk to a fisherman, particularly with a 120-foot trawler out on the high seas—they are now costing $5 to $10 million coming off the ways—the risk is so high that unless there is a very stable and good market at the processing end that we can count on, for all the money that you want to add to the fisherman, you are just going to be in a rescue situation again and again. And I am a little bit concerned that the requirement, as I read the bill, that it would have to be a 75-percent American-owned company to qualify for some of the money at the processing end may put some limits on our ability to bring in, for instance, the Danes and the Japanese. Technologically they are very competent, at the processing level, there need to be a viable market for people who are out on the high seas.

Thank you very much, and I will answer any questions.

Mr. **Breaux**. Thank you.

Mr. Sparck?

Mr. **Sparck**. Mr. Chairman, in the interest of brevity, I too would like to have my presentation entered into the record, and I would like to summarize my statement.

In previous appearances before this committee, I have been here as a representative of the Yukon fishermen, and now I am representing the Bering Sea Fishermen's Association, which not only includes the Yukon area fishermen, but those of Norton Sound, Kotzebue Sound, Bristol Bay, and the Aleutian Pribiloffs, in regard to the Peninsula Marketing Association. Mr. Smith represents the Aleutian Corp.

The reason that I am here is the same reason Mr. Smith is here. That is that we, too, are small boat fishermen. In the near future, we have no intention of going to the high seas with our fleets. Our fleets are small skiffs at this time. Due to market conditions and due to the innate poverty of the region, we do not expect to generate the funds that would allow us to move offshore. Our main concern is the interception of our stocks in the high seas. These include both salmon and herring.

When I have appeared before this committee in the past, I have spoken repeatedly about the difficulty we have had under the FCMA in having the foreign fleets pay attention to significant domestic issues and to have American policymakers remove these fleets from pressuring our inshore stocks, while the herring and salmon are offshore.

I would like to repeat for this committee two articles within the bill, H.R. 7039, which would significantly benefit us.

No. 1 is the 100-percent observer coverage. I read that to mean 100-percent practical observer coverage, meaning if you have a factory ship with 20 catcher boats that an observer would be placed on the mother ship, and also that an observer would be placed on the self-contained trawlers. The reason for this is very significant. I have informed your staff in detail in the past about the difficulties with the small-stern trawlers of the Japanese fleet and the large-stern trawlers of the Soviet fleet, in regard to herring. What we have consistently reported is an underreporting of herring. The fleets miraculously continue to catch the bottomfish allocation, while they continue to underreport their herring allocation, which is an incidental bycatch.

They do this by just forgetting what they have caught, and yearly come in to within 10 percent of the dwindling herring allocation that has been given them by the State Department and by the National Marine Fisheries Service, with no cutback in bottomfish intensity.

Because of the lack of observers, they have been able to get away with this. One of the tenets of your bill, the 100 percent observer coverage, which is most important to us is that this underreporting with 100-percent observer coverage will eventually hang these fleets.

The National Marine Fisheries Service, while not sympathetic to western Alaska's concerns about herring, has been dutifully recording the amounts the Soviets and the Japanese have reported. It now goes into the herring fisheries management plan. This means that when the small-stern trawler fleet of Japan, during the midwinter months of November, December, January, February, and March catches approximately 3,000 tons of herring, as bycatch they are going to have to shut down their bottom fisheries. That is their own doing. That is the limit that they can harvest in the ocean without damaging the small northern stocks of herring above Bristol Bay by their own reporting.

The key to this is observer coverage. You may remember my last appearance before the committee, when I complained bitterly about the 5.5-percent observer coverage that we have in the Bering Sea on the small-stern trawler fleet. We have been told by NMFS that we will live with that 5-percent figure until 1982; there will be no change in that observer coverage.

As long as the observer coverage remains low, the foreign fleets can continue to poach our fish without any type of observation or effective controls on them. This is the concern which has brought me here again.

So we firmly support the 100-percent practical observer coverage.

The second issue that we would like to talk about is the one that we first advocated during the enactment of FCMA.

Mr. **AuCoin**. Mr. Chairman.

Mr. **Breaux**. The gentleman from Oregon.

Mr. **AuCoin**. I appreciate the chairman recognizing, and I hate to interrupt the witness. But with the vote on, there is one point I wanted to make with regard to the statement that he made on the observer program.

It would seem to this member of the committee that it would be important for that observer program to apply not just to the processing mother ships, but also the foreign harvesting ships, because the smaller harvesting ships could easily, it would seem to me, move outside the 200-mile zone, deliver their catch to a processing vessel there, and we would lose the effective enforcement that we are trying to achieve through the 100-percent observer program. So in my judgment, I think it is important to apply it to both, and I just wanted to make that comment in case I do not have a chance to.

Mr. **Breaux**. Fine.

Let us go ahead and start asking some questions.

Mr. Forsythe, do you have any questions of the witnesses?

Mr. **Forsythe**. Well, it is a matter of the time situation. There are some things I wanted to discuss, but I think I would be willing to submit some questions.

Mr. **Breaux**. All right.

Mr. **Forsythe**. Thank you.

[The following was received for the record.]

STATEMENT OF HAROLD SPARCK, REPRESENTING BERING SEA FISHERMEN'S ASSOCIATION

Thank you, Mr. Chairman for this opportunity to testify concerning H.R. 7039. The Bering Sea Fishermen's Association is a composite grouping of the five Western Alaskan fishing regions, and represents both the commercial and subsistence interests on these regions. The BSFA firmly supports two important sections of this legislation: (1) 100 percent practical observer coverage of foreign fleets within American extended jurisdiction; and (2) tying TALFF to relaxation of foreign import prohibitions to encourage domestic efforts to enter deep water fisheries currently dominated by foreign fleets. Western Alaska has had a great deal of experience being on the short end of the proverbial stick on both issues since the enactment of the FCMA in 1976, and has learned many bitter lessons at the hands of the foreign fleets and their agents in attempting to have FCMA implemented to protect domestic interest. In order to explain our interest in the legislation, I shall present several examples of how current regulations protect the foreign fleets, and prevent American participation through the FCMA:

1. Beginning in 1974, western Alaskans organized and sought protection for their inshore fisheries: Salmon and herring; that were being fully utilized for commercial and subsistence domestic purposes. The Japanese fleets were double dipping into these resources without restraint. On salmon, the Japanese high seas gill net fleet, the Mothership fleet of the Bering Sea and the Land Based fleet of the North Pacific plundered our stocks east of 175° Longitude, while the Japanese small stern trawlers intercepted our immature king salmon right off our coastline in their dimersal trawl gear. In addition, the Japanese small stern trawlers with the able assistance of the Russian large stern trawlers and the Japanese Longliner Association were taking turns overharvesting Eastern Bering Sea herring in both a midwinter food-fishery and a spring sac-roe fishery. We argued that these fleets were causing a significant conservation problem with our resources and supported enactment of the FCMA to control the problem fishing. Once the FCMA was in place, we

immediately petitioned the NMFS to withhold all TALFF until the foreign fleets through both GIFA's and actual fishing patterns respected specific herring and salmon stocks, refraining from target fishing. Instead, our government immediately fell over itself giving away the bottomfish TALFF without an equal exchange of goodwill from the foreign governments or their fleets.

NMFS promulgated regulations interpreting TALFF as absolute figures in biological terms that must be allocated if domestic harvest does not take place, and these figures are based solely on suspect foreign catch reports. When it became time to discuss protection for our discrete fish stocks caught in significant numbers as nontarget species during the bottomfisheries, or for relaxation of import tariffs to encourage domestic entrance into bottomfisheries, there was frankly nothing left to trade or barter. The Japanese small stern trawlers accounts for only 21 percent of the Japanese bottomfisheries harvest, its use of dimersal trawl gear allows it to take 70 percent of the immature king salmon within the extended jurisdiction. We have had no luck in convincing either the NMFS to increase observer coverage above the 5.5 percent figure, to institute permit penalties for increasing numbers of prohibitive species catch, or for a change to pelagic trawl gear. NMFS responds that it made a mistake in believing that the foreign fleets would be replaced by domestics by 1980, and proposed an overall observer coverage reduction in the Bering Sea; no relief is expected without this legislation on this point until 1982. The latter two points are paper regulations without adaquate observer coverage, depending on the suspect integrity of foreign captains to report accurately each prohibitive species they catch and subject themselves voluntarily to heavy fines and area/time restrictions.

The key to this issue is observer coverage. The foreign fleets by underlogging their catches to NMFS will hang themselves if the observer coverage increases to every mothership of catcher boats and self-contained trawlers. Once these fleets achieve the low harvest they report for nontarget species with observers aboard, they will have to stop fishing for their supposed target species. I point out to you on page 44 of the North Pacific Fisheries Management Council's draft Herring Management Plan for evidence of how precarious this situation could become for the foreign fleets. You will notice that with no perceptible decrease in bottomfishing intensity or location, the foreign fleets continue to come within 10 percent of a yearly reduced herring total.

In regard to linking future TALFF's with rollbacks on tariff restrictions, I would point out to this committee secondary benefits. Frankly, we have been unable to budge Federal officials to inconvenience the different fleets of the Japanese Fisheries Association by voluntarily laying off of our Eastern Bering Sea Herring, and king salmon. We have failed miserably under the current rules of the game, and the serious conservation problem continue under the Council palns and FCMA regulations. We had to go to court to prevent mixed-stock target fishing of herring in February; we won because Federal officials disregarded the FCMA. Three months after the Judge ruled in our favor, JFA convinced the North Pacific Council to protect its mid-winter fishery at the expense of our herring.

The entire mid-winter catch of bottomfish in only 5 percent of the entire bottomfish harvest. Placing a time-area closure in the area where the herring are supposedly intercepted "incidentally" would only inconvenience this fleet 19 percent of its mid-winter catch. That equals 19 percent of nothing in terms of total tonnage. JFA convinced the NPFMC over the objections of the Alaska Board of Fisheries, the Governor of the State, and the threat of another law suit in November by Western Alaskan's anxious to protect their herring from mixed-stock fishing to allow the mid-winter fishery to continue as is. That is the nefarious relationship that has developed since enactment of the FCMA. It is often difficult from our perspective to distinguish foreign interests from many of our American voting delegates on the Councils and within government fishing agencies.

This legislation will allow regional fishing organizations like ourselves to effectively push to replace the existing fish barter system with one that respects conservation of domestic fish stocks and promotes entrance by domestic fleets into bottomfisheries. JFA, other foreign fleets and their American representatives will not tread as hard on domestic efforts to protect discrete stocks and compete in the market place with this legislation. The current arrogance of the foreign nations and their fleets to expect their yearly allocation without barter or trading is well founded; it has even become institutionalized within FCMA and the Councils. Positive action on this legislation by the Congress will correct that dangerous relationship.

Mr. **Breaux**. Mr. Anderson.

Mr. **Anderson**. No questions.

Mr. **Breaux**. Anyone else?

[No response.]

Mr. **Breaux**. You both pretty well agree that there is underreporting of foreign fishing at the present time?

Mr. **Smith**. Yes, sir.

Mr. **Sparck**. Yes, sir.

Mr. **Breaux**. You might, if you can, Mr. Sparck or Mr. Smith, offer some additional indications of what you feel has occurred. If you happen to have any kind of specific statistics on underreporting, it would help our case to support a 100-percent observer program.

Mr. Sparck, you also, I think, are clear that you do support the phaseout of foreign fishing with a definite time schedule.

Mr. **Sparck**. Mr. Chairman, I believe that Lucy Sloane would be much more capable of discussing that, and so would Mr. Smith.

As I said, our fishermen would not be moving offshore. We would not go into competition with the large foreign trawl fleets at this time.

Mr. **Breaux**. Well, gentlemen, we both appreciate your time with us.

Gentlemen, we thank both of you for your appearance and your testimony.

The next hearings on H.R. 7039 are scheduled for the 19th and 20th. We are also looking for a markup probably this month, after the hearings are completed.

The committee will be in recess until further call of the Chair.

[Whereupon, at 12:20 p.m., the subcommittee was adjourned.]

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AMERICAN FISHERIES PROMOTION

MONDAY, MAY 19, 1980

House of Representatives, Subcommittee on Fisheries
and Wildlife Conservation and the Environment,
Committee on Merchant Marine and Fisheries,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room 1334, Longworth House Office Building, the Hon. John B. Breaux (chairman of the subcommittee) presiding.

Present: Representatives Breaux, Wyatt, Forsythe, and Pritchard.

Mr. **Breaux**. The subcommittee will please come to order.

This morning the Subcommittee on Fisheries and Wildlife Conservation and the Environment will receive testimony on H.R. 7039, the American Fisheries Promotion Act.

The aim of this proposal is to provide a comprehensive solution to the multitude of problems facing both the harvesting and processing sectors of the American fishing industry.

I am very pleased that the bill is receiving such widespread support from American fishermen. Characteristically, the administration response has been disappointing.

Statistics recently provided to me by the National Marine Fisheries Service—NMFS—represent compelling evidence that the kind of bold initiative reflected in H.R. 7039 is essential, not only to the meaningful growth of our fishing industry, but also to the very survival of major components of it.

NMFS reported last week that in 1979 U.S. fishermen accounted for only 33 percent of the harvest in the 200-mile fishery conservation zone established by the Fishery and Conservation and Management Act of 1976—FCMA.

NMFS estimates that 75 percent of our gulf shrimp fleet, which has annually contributed 24 percent of our national food fish harvest, is tied to the docks, that 25 percent of our gulf shrimpers face possible default on their vessel mortgages, and that the Federal Government has a potential liability of $36 million under the title XI vessel obligation guarantee program.

U.S. imports of fisheries products amounted to $3.7 billion in 1979, while our exports of those products added up to only about $1 billion. This $2.7 billion trade gap represented 10 percent of our national balance-of-payments deficit which continues to fuel the inflation ravaging our economy.

As we all know, the reasons for these serious problems are many and interrelated. However, some people have been unwilling to admit that a modest, piecemeal approach to the resolution of our difficulties cannot succeed.

H.R. 7039 recognizes three critically important facts:

One. Immediate, substantial, and realistic financial assistance is needed to permit the survival of valuable sectors of our fishing industry;

Two. New, ambitious, long-term programs are needed if the industry is to realize its vast potential for the benefit of this Nation; and

Three. All of this must be achieved without the expenditure of significant additional sums of Federal tax dollars.

I strongly believe that H.R. 7039 responds to these realities. The following are the principal components of my bill:

(1) Revitalization of the Fisheries Loan Fund for a limited period of time to provide low-interest loans to fishermen about to default on their vessel mortgages due to circumstances beyond their control;

(2) Revitalization of the Saltonstall-Kennedy Fisheries Research and Development program to assure maximum industry participation and optimum use of available funding:

(3) Reasonable new fees on foreign fishing in our zone to provide necessary supplemental funds the Fisheries Loan Fund and the Saltonstall-Kennedy program;

(4) Extension of the Capital Construction Fund tax deferral benefits and title XI obligation guarantees to fish processors that are at least 75-percent U.S.-owned;

(5) A phaseout of foreign fishing in the U.S. zone on a schedule designed to offer our fishermen a reasonable expectation, not an unreasonable guarantee, of an end to foreign fishing in the near future, and thus encouraging investment and opening foreign markets;

(6) An express link between improved access to foreign markets and allocations of our surplus fish to foreign fishermen;

(7) Special fisheries attaches in key foreign capitals to assist in market development for U.S. products, and

(8) One hundred-percent observer coverage on foreign fishing vessels until they are phased out.

I want to emphasize that I am committed to comprehensive fisheries development legislation. While I am, of course, prepared to consider amendments to H.R. 7039, I am determined to do my utmost to arrive at a final product which will effectively and pragmatically assist the American fishing industry.

I look forward to cooperating with the industry toward the goals that must be achieved.

I have also added a markup on this legislation following the 2 days of hearings on Monday and Tuesday, markup being scheduled for the 28th of this month.

I now recognize any of my colleagues for comments.

Mr. **Forsythe.** Thank you, Mr. Chairman. I certainly join you in your determination to bring this very important measure to a conclusion.

As you have pointed out, the interest across the board in the industry is very, very substantial. We both know that we will not everyone will be happy, but I think a compromise can be arrived at that will accomplish the goal. A goal that is a very, very important one if we are to see our whole fisheries program move the way it was originally intended when work was first started on the FCMA, I congratulate you, and let's move on.

Mr. **Breaux**. With that statement we would now welcome our first panel of witnesses.

We have a large number of witnesses today, and we will have them present their testimony in a panel.

The first panel I would like to welcome will be Mr. Lewis Agard, representative from the Western Pacific Fisheries Management Council, and also Mr. John C. Bryson, executive director, Mid-Atlantic Fishery Management Council.

Gentlemen, we welcome you and ask you to take your seats at the witness table.

Mr. Agard, we have you listed first. We would be pleased to receive your testimony.

STATEMENT OF LEWIS AGARD, JR., REPRESENTATIVE, WESTERN PACIFIC FISHERIES MANAGEMENT COUNCIL

Mr. **Agard**. Mr. Chairman and members of the committee, my name is Lewis Agard, and I am a commercial fisherman and have been a member of the Western Pacific Fishery Management Council since 1976.

I have appeared before you when your subcommittee held FCMA Oversight Hearings, and appreciate the opportunity to appear again before you to express our views on your American Fisheries Promotion Act.

Generally, we in the Western Pacific region are in agreement with what you are proposing and wholeheartedly support your objectives. However, because of the uniqueness of the areas on our region, which is comprised of American Samoa, Guam, Hawaii and the Northern Mariana Islands, when FCMA is amended to include them, and we have a number of concerns which we hope your bill will be able to address.

The area of the Western Pacific region is vast, underdeveloped and separated by thousands of miles of open ocean. The largest and richest resource in the Pacific is tuna which, as you know, is not included in the FCMA. Almost 2 million metric tons of tuna are harvested yearly in the Pacific.

The people of the four areas in our region have different citizenship status, and while they are subject to the same rules and regulations as citizens of the United States, many are unable to benefit from present loan programs because they are not considered citizens of the United States, nor do most of them have a record of fishing history.

Another requirement of the loan programs is that boats to be built must be 5 net tons or over. Most of the fishermen in the island areas cannot afford to build boats larger than 5 net tons.

Another important factor is that under FCMA, foreign built hulls cannot be used to fish in the FCZ of the United States. Because there are no shipbuilding companies in the islands, a U.S. hull would have to be constructed on the mainland United States and transported to the island areas, thousands of miles away.

The exorbitant construction and freight costs make this a prohibitive venture for any islander. President Carter earlier this year issued a proclamation exempting the Northern Mariana Islands from using U.S. hulls to fish in their FCZ. However, this arrangement ends when the trusteeship ends in 1981. Obviously, this is only a short-term remedy.

Present loan requirements are indeed restrictive to many of our Islanders and your bill imposes additional restrictions. Specifically, "use of S-K moneys would be restricted to enterprises 75-percent U.S. owned and matching funds from the Federal Government of not more than 75 percent and not less than 50 percent." This is how we have perceived our proposal.

Citizens of American Samoa and the NMI would not benefit from the first restriction because they are not considered U.S. citizens. On matching funds, except for Hawaii, the remaining areas would find it extremely difficult to bear the 50-percent and 25-percent matching costs. The President on February 14, 1980, announced a comprehensive Federal territorial policy for Guam, American Samoa, the Northern Mariana Islands and the Virgin Islands.

The basic elements of the policy are:

One. Encourage self-determined political, economic, and social development of the territories, within the context of U.S. national security interests.

Two. Foster private sector economic development in the territories.

Three. Provide incentives to reduce territorial reliance on U.S. grants for operating expenses and capital improvements.

Four. Substantially upgrade policy attention and technical assistance provided to territories by Interior and other Federal departments.

Under capital development, which includes the infrastructure so badly needed in the Island areas, the President proposed the Federal Government finance 90 percent of the cost of these kinds of projects until the territories become financially sound to assume a greater portion of the cost.

Under Federal grant programs, he proposed a waiver of matching requirements for programs or projects the Federal Government wants to encourage in the territories, particularly with respect to fisheries and fishery development.

In view of the above, we strongly urge that your bill contain a provision that would allow the proper Department Secretary to waive existing citizenship, vessel size and history of fishing requirements so that many of our islanders can qualify for loans; include a provision for freight subsidies for shipment of U.S.-built hulls, or tax rebates, or other appropriate methods to equalize costs of vessels to the islanders; include a provision that would waive matching requirements for the islanders at the discretion of the Secretary of the proper Department.

We are in favor of your proposed studies on fuel problems and fish quality standards. Fuel costs to the fishermen in our islands now range from 83 cents to $1.20 per gallon. The high cost of fuel here definitely restrains current fishing operations and restricts growth of our fishing industry in the Islands.

Regarding fish quality, a very large problem in our islands is ciguatoxin poisoning. Several deaths have been attributed to this poisoning and many, many islanders have become very ill. Moneys were provided by the Federal Government for research, and a simple test was devised by a University of Hawaii professor using litmus paper to detect ciguetera poisoning in fish.

A testing program at the auction block in Honolulu has been undertaken, but we understand that NMFS may not continue funding for this program. It is imperative that this testing program continue and that funds be made available to continue ongoing research on this poisoning.

We applaud your efforts to revitalize S-K funds for fishery development. We cannot emphasize enough the fact that fishery development requires immediate attention in our island areas. In response to years of pressing the Federal Government to help the island areas help themselves, the administration sponsored a Pacific Basin Development Conference in Honolulu on February 17-20, 1980, immediately following the President's announcement of his new territorial policy.

Federal Government department heads and State and Territorial government department heads worked together to outline the major constraints of island development. Attached for your information are the results of the fisheries panel which shows immediate and pending needs and corresponding budget requests for 5 years totaling $106,437,000—attachment I. You can see the magnitude of our needs in the Pacific.

Over the past 4 years, S-K funding for the Pacific Tuna Development Foundation has averaged $1.25 million per year—1975-79. However, only a small portion has been used to help the island areas develop their capacity for harvesting and marketing the vast tuna resources in the Pacific. Most of the funds have gone to purse seiners. In 1979, 64 percent of PTDF funds went to tuna purse seining—very few islands can afford a purse seiner—and approximately 27 percent went to actual Island projects—attachment II.

Regarding new fees, we support proceeds going to the loan fund and to the S-K program. As we proposed earlier, certain loan fund requirements should be waived so that everyone in our region might benefit from these funds. It is most logical that fees generated from fisheries be used for fishery programs rather than added to the general Treasury fund, and we hope this can be accomplished.

In developing our Billfish Fishery Management plan, we are trying to develop management policies and measures that will prevent the wastage of billfish, which we believe is now happening under the non retention policy of the billfish PMP.

We are considering a proposal to levy value transfer fees on the foreign fishermen for the retention species, and we proposed that those fees be used for fishery development in our areas.

Another part of the proposal deals with waiving the Nicholson Act for Hawaii so that foreign fishermen could land their nonretention species and other by catches of tuna in Hawaii. So that this would not impinge on the local commercial longliners, the landings would be no more than the amount of frozen fish that Hawaii would normally import from Japan or other foreign countries, as is being done at present—attachment III. We are also discussing including tuna in this landing proposal.

While we support the phaseout of foreign fishing, we would not now benefit form this phaseout because tuna, our largest and richest resource, is now included in the FCMA. The foreign fishermen would still be fishing in our waters. However, American Samoa is dependent on the foreign fleets that are based there.

We support your proposal to establish a foreign fishing observer fund and your proposed 100-percent observer program on foreign vessels. To date, we have received some 800-plus merit applications from the Japanese to fish the billfish and shark fishery, and expect permit applications from the Koreans and the Taiwanese to follow soon.

As presently financed, the observer program at the Honolulu Laboratory of NMFS has funds for only four observers.

We fully support your proposal to increase the number of U.S. fisheries attachés to six, and to place them in key areas around the world. We work very closely with the fisheries attaché in Japan and our fishing industry has benefited tremendously from the information gathered by the attaché.

Thank you.

[The attachments follow:]

MA 140021

/A

PACIFIC BASIN DEVELOPMENT CONFERENCE - February 17-20, 1980 - Kuilima Hotel, Honolulu, Hawaii

FISHERIES PANEL APPENDIX I (2nd Draft - April 7, 1980, Guam)

FIVE YEAR FUNDING BUDGET (CONSOLIDATED)

($000[1/])

Category	Program	Workshop Panel	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Overall/Immediate								
	Regional Fishery Development Plan	1	150	50	50	50	50	350
	Local Fishery Development Plan	1	450	200	200	200	200	1,250
Immediate								
	Regional Resource Assessment	2	200	1,800	2,250	2,812.5	1,000	8,062.5
	Ciguatera Survey and Research	2	285	285	285	285	285	1,425
	Aquaculture	2	100	100				
	Aquaculture				500	500	500	1,700
	Propagation of Live Bait	2	700	2,700	2,700	837.5	837.5	7,775
	Accessibility of Small and Medium Size Hulls for Domestic Fisheries	2	40	-	-	-	-	40
	Extension of NMFS	1	Should be done in house by NMFS			-	-	
	Impact of Maritime Laws on Fisheries	1	100	-	-	-	-	100
Pending								
	Transfer of Fishery Technology	2	50	50	50	50	50	250
	Market Information & Market Potential	2	10	75	75	75	75	310
	2/Fisheries Marketing Systems		Covered in Regional Plan					
	Regional Fisheries Loan Fund	1		15,000	-	-	-	15,000
	Port and Infrastructure Improvements							
Move to Immediate	3/Hawaii	1	4,500	8,000	14,000	11,700	8,000	46,200
	American Samoa	1	65	875	975	335	175	2,425
	Guam	1	550	1,500	2,500	1,500	1,500	7,550
	NMI	1	10,000	1,000	1,000	1,000	1,000	14,000
	TOTALS		17,200	31,635	24,585	19,345	13,672.5	106,437

1/$ amounts reflect original budget figures

2/Recommend be included in overall regional and local fishery development plans.

3/These are corrected amounts. Includes funds from all sources, Federal, State, and private sector.

ATTACHMENT II

SUMMARY OF 1979 PTDF PROGRAM

Title	Funds Requested Through PTDF	%
Industry Project		
1. Tuna Purse Seining, Western Pacific	$1,602,000	64.2
Island Projects		
2. Aggregation of Skipjack Tuna - Anchored System, Hawaii	24,500	
3. Anchored Fish Aggregation Devices, American Samoa	65,500	
4. Anchored Fish Aggregation Devices, Guam	21,500	
5. Northern Marianas Tuna Aggregation	28,250	
6. Hawaii Baitfish Field Trials	70,000	
7. Pole and Line Fishing, Truk	135,900	
8. Baitfish Resources Development, Ponape	87,300	
9. Multi-Use Demonstration and Training, American Samoa	45,000	
10. Northern Mariana Fishery Training Program	43,421	
11. Tuna Fishery Development Plan	50,000	
12. Leeward Hawaiian Islands Tuna Development	87,667	
13. The Economics of Transshipment of Frozen Tuna in the Trust Territories and Guam	17,720	
Total Island Projects	$676,758	27.1
Consultant		
14. Consultant Services	147,000	5.9
Administration		
15. Administration Expenses	70,000	2.8
TOTAL	$2,495,758	100%

ATTACHMENT III

Drafted by
Louis K. Agard
8 Nov. 1979

PROPOSED RESOLUTION
(for consideration at 21st Council Meeting)

WHEREAS, the FCMA is generally recognized as being beneficial to American fishermen in reducing gear conflicts between domestic and foreign fishermen and further decreases foreign catches while conversely increasing domestic catches.

WHEREAS, the FCMA manages fishery resources within the 200 mile FCZ of all fish species except tunas. The migratory species which also include tunas are very valuable to the Western Pacific region. This region does not have anadramous or continental shelf resources while the majority of the other regional councils possess such resources in quantity. Implementing management plans to regulate species approved under FCMA and are migratory has been consistently delayed. This delay has been caused to some degree through the inconsistent application of managing migratory species by including some under management while excluding other migratory species all of which may be caught on the same gear. This condition appears to complicate the enforcement of management plans developed under FCMA. For a non-continental region possessing only valuable migratory species the FCMA therefore has an effect of discouraging management and fishery development of such species. This effect is realized by the permitting of foreign fishing in the FCZ on all migratory species and the maintaining of the status quo.

WHEREAS, the status quo provides little benefit to the Western Pacific region the following is proposed. Because the FCMA complements the Nicholson Act, which prohibits the landing of foreign fishing vessels in a portion of the Western Pacific a consistent application of this law is desirable. The Nicholson Act has applied to the states and not the territories and relief from the Act would permit landing of foreign catches which are taken incidental to directed tuna fishing while not directed fisheries in themselves. Permitting the landing of foreign incidental catches in the entire Western Pacific region would alleviate any waste of incidental catch for any reason. Such landing action permits reasonable access to tuna catching under FCMA however may discourage foreign fishing within the FCZ in the process. No foreign fishing for migratory species with the FCZ has a known net benefit to the domestic fishery. The incidental catch in a directed tuna fishery is a calculable quantity with a known value. The U.S. declares ownership of the incidental take in the FCZ and therefore the option exists for foreign fishermen to land incidental catch or to compensate for U.S. ownership. Compensating for U.S. ownership is a value transfer. Any such landings may be subject to tariff if necessary or value transfer receipts may both be deposited in the U.S. Treasury general fund to support appropriations to fishery activities.

BE IT RESOLVED, that the FCMA permits tuna fishing within the fishery conservation zone (FCZ) to foreign countries. In the process of directed tuna fishing several other valuable migratory species are taken incidentally. Recent guidelines seek to address this problem by area closures, seasonal fishing or gear restrictions. Migratory species of value will still be taken in the FCZ by foreign fishing regardless, as long as foreign fishing is permitted and will represent a percentage of total catches by an average. To avoid waste of valuable migratory species taken by foreign fishing as incidental catch either under non-retention rules or discarded as lower value incidental catch in a higher value, directed tuna fishery landing of such species or full value transfer are alternatives.

The Western Pacific Regional Fishery Management Council request that Congress enact legislation to grant relief to the region as further outlined. The Nicholson Act be amended to permit all non-continental United States regions or territories which areas include American Samoa, Guam, Hawaii and eventually the Northern Marianas the landing of foreign caught fish within those indicated regions. This action is necessary to facilitate the development and implementation of fishery management plans under the FCMA. Further, this action will present the greatest benefit to the region itself and the nation as a whole.

Mr. **Breaux**. Thank you, Mr. Agard.

Mr. Bryson?

STATEMENT OF JOHN C. BRYSON, EXECUTIVE DIRECTOR, MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

Mr. **Bryson**. Thank you, sir. Since you seem to be quite pressed for time today, I will summarize if it will be helpful to you and let the statement stand for the record.

Mr. **Breaux**. Without objection, your entire statement will be made a part of our official record.

[Mr. Bryson's statement follows:]

STATEMENT BY

JOHN C. BRYSON, EXECUTIVE DIRECTOR

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

I would like to express the gratitude of the Mid-Atlantic Fishery Management Council for the opportunity to comment on this important legislation.

We support the expansion of the loan guarantee program to processing facilities. We would support a strengthened loan program for vessel construction for those entering into a fishery for underutilized species.

We would suggest a return to the conditional fishery concept and an elimination of loans in those conditional fisheries. The program needs to be modified to allow funds set aside for a fishery than becomes conditional prior to usage to be transferred to another fishery. The National Marine Fisheries Service should be required to publish a list each year of conditional and near conditional or marginal fisheries. This could be used by fishermen in their planning.

The changes to the FCMA would establish a five year schedule for phasing out all foreign fishing in the Fishery Conservation Zone. The reduction in the first year is a 10% reduction from the base year (1979). If the Secretary of Commerce concludes that there are surpluses of fish that US fishermen will not harvest, the reduction may be postponed after the first year. The postponement is final unless vetoed by the Senate or House of Representatives. We complement you on the intent of this legislation and your desire to assist the entry of US fishermen into larger domestic and world markets. However, based on our understanding of the situation, we see several problems with the proposed system.

(1) The reduction of only 10% is probably not enough to make a significant difference in foreign markets for US caught fish. Given the fact that the Secretary could freeze the reductions at that level indefinitely, the first year reductions should be significantly greater than 10% if this method of control is pursued.

(2) In analyzing factors to determine whether the reduction should be postponed, the Secretary does not need to take into account approved Management Plans and/or consult with the Councils. At the very least, if this provision remains in the legislation, the Secretary should be required to make a finding that the postponement is in compliance with approved Fishery Management Plans.

(3) We would suggest that a veto by the appropriate committee of the House or Senate would be adequate, not a vote of the full House or Senate.

(4) It is not clear how the reduction schedule would be implemented relative to approved or pending Fishery Management Plans. It is not clear whether the proposed reduction schedule and the use of 1979 actual foreign catches for the base year are appropriate for all fisheries.

During the course of the Council's deliberations with respect to H.R. 7039, two alternate proposals were advanced. Both of these dealt with the amendments to the Fishery Conservation and Management Act as set forth in Section 301 of H.R. 7039.

The first of these proposals would insert a provision into Section 301 requiring a reappraisal and readjustment of foreign fishing fees so as to eliminate the disadvantaged economic position of American fishermen arising from factors such as high fuel and labor costs and lack of government subsidies. Under this proposal each foreign nation would be considered individually, with fees for that nation being fixed in such amount as to equalize the economic position of the foreign fishermen and the American fishermen.

At present, the fees paid by a foreign nation for each allocation (figured on a per ton, per species basis) are such that the net cost of harvesting each species with its own vessels in the Fishery Conservation Zone is much less than the cost of purchasing the equivalent amount of the same product from US fishermen/processors through regular export channels or, for that matter, through US/foreign joint fishing/processing ventures. In fact, in some cases the foreigners can sell back to the US market at a lower price than our own fishermen must charge.

It should be possible to establish a five-year (e.g.) schedule of incremental increases in foreign fishing fees that would progressively reduce this imbalance. The ultimate aim in the calculation of these fees would be to make it less costly for a foreign nation to obtain fishery products by purchase than by the harvest of Total Allowable Levels of Foreign Fishing.

Factors which we suggest be considered in the calculation of these fees include but are not limited to:

(1) prices needed by US fishermen and processors to produce these goods;

(2) 'start-up'costs associated with initial development of these US industries;

(3) costs to foreign fishermen of harvesting each species in the US Fishery Conservation Zone;

(4) other factors, such as inflation, differential fuel costs, lead times necessary to obtain new equipment and facilities, world supplies and prices of similar fishery products, etc.

Several advantages should accrue from such a system, such as:

(1) Increasing market protection would be guaranteed to the US industries, allowing for long-range planning and development.

(2) There would be no need to artificially reduce Optimum Yields, Total Allowable Levels of Foreign Fishing, etc., and, thus, few conflicts would develop with

Fishery Management Plans. Resource surpluses would remain available to foreign nations, albeit at increasing costs.

(3) A firm and long-range schedule of such fees would eliminate virtually all of the uncertainty in foreign markets as to the long-term outlook for fishing in the US Fishery Conservation Zone. This should accelerate the growth of the US export industry, which has suffered to date from year-to-year foreign fishing speculations.

(4) If a foreign nation should choose to harvest, rather than purchase, fish from the US Fishery Conservation Zone, the income to the US Treasury would be far greater than that obtained from the current schedule of fees. Such funds could augment significantly the resources now available for domestic research and development, or possible subsidies.

This kind of system, with the possibility of resource "surpluses", would also facilitate implementation of US/foreign joint fishing/processing ventures, if such were determined to be desirable to encourage the growth of a domestic industry. For example, an agreement by a foreign nation to enter into a joint venture with US fishermen for a particular species (or to purchase a specified amount of US-processed product) could be accompanied by an appropriate reduction (say 10%) of the fees imposed on that nation for fishing privileges (within the Fishery Management Plan- or Preliminary Fishery Management Plan-specified surplus limitations) for another species in the Fishery Conservation Zone, or other relaxations in requirements.

The second proposal would impose an absolute time limit on the period during which the Secretary of Commerce could defer all or part of the scheduled reductions in foreign fishing. This would prevent an indefinite series of "roll over" deferrals and would insure that foreign fishing would, in fact, ultimately be phased out. Thus, if a three year limit, for example, were set, the

Secretary, after three years of deferrals of any one scheduled stage (such as 10% or 25%), could no longer defer the automatic reduction called for by Section 301 and the reduction would go into effect.

With regard to the foreign observer program, we support the proposed legislation, except that it is not clear that foreign nations fishing in the Fishery Conservation Zone would be required to pay all costs of the foreign observer program, not only the costs of keeping an observer on a particular vessel. Without this provision, the revolving fund will not be self-sustaining. In other words, the foreign observer program would need to be supplemented with appropriated funds from time to time.

Mr. Bryson. Thank you, sir.

We support the general intent of the legislation and compliment you on its drafting. The loan guarantee program for processing facilities is certainly a step in the right direction.

We would support a strengthened loan program for vessel construction for those entering the United States under utilized species. We do feel that it's necessary to return to the conditional fishery concept that had been used and was somewhat abandoned, where the loans are not made into fisheries that are considered to be conditional or actually known will not be viable in the future.

With that, however, it's probably necessary to make some changes in the present funding concepts, whereby an individual who has set aside his money over a period of years to enter into a particular fishery would be allowed freedom to switch into other fisheries.

I understand that can be done now with special permissions, but should be clarified.

On the phaseout program, we think you are certainly on the right track here, but we question whether or not you will actually achieve the goals you intend to achieve. The 10-percent phaseout the first year in our opinion will not be enough to allow U.S. fisheries to enter into foreign markets or make a substantial dent on the fisheries coming back into the United States from foreign fishing.

Couple that with the fact that the Secretary, if that is not effected, could postpone the plan indefinitely. We feel you may need some modifications to the concept.

We would offer two proposals to do that: One, a time phaseout whereby the Secretary could only postpone the next step for a certain period of years, 2 or 3 years maximum, so it wouldn't be something that could hang on indefinitely.

We think that would reach the intended goal in time and the fisherman would have some idea how to plan.

The other, which we feel could be much more effective, is a fee-phaseout concept. As we understand the problem of U.S. fisheries, a lot of the problem is world markets. We have a lot of potential in some of these underutilized species for world market, but a lot of special problems have to be ironed out in various countries.

Rather than taking the route of negotiations by State Department and Commerce to try to change some of these tariffs and other barriers, perhaps a fee schedule that would phase out the profitability of foreign fishing in the United States, at the same time offer them a method of reduction if they are cooperating with us, in other words, if any one country cooperates with us in buying fish from us or in joint ventures, we could reduce their fees on other fisheries.

We think this would break those barriers a lot faster and put the U.S. fisheries into total utilization much faster, and I guess the concept we are suggesting is it should be somewhat unprofitable for foreigners to fish in our waters and more profitable to buy from us.

I have listed several reasons and advantages in the paper which I won't go through. We certainly support the observer program. We only have one question there. We assume that the cost of the observer program in toto will be covered by the foreigner, not just the cost of keeping the man on the vessel.

It isn't quite clear to us that that was intended to be a total program.

The other point that some of our State directors were questioning, I think it's clear in the bill, but they want it to be clarified, that the States are an applicant for 40 S-K funds. I think that is the intent now, that the States may be an applicant, but they want that clarified so it's abundantly clear.

I think that covers the major points we wanted to hit. If there are any questions I will be glad to try to answer them.

Mr. **Breaux**. Thank you very much, gentlemen, for your statements.

Mr. Agard, I think a number of the concerns that you expressed for the area that you represent, not having the status of statehood, can be dealt with by a number of technical amendments. I would try and do that whenever possible.

You raised a point which I didn't quite understand on page 5 of your testimony, saying: "Another part of the proposal deals with waiving the Nicholson Act for Hawaii, so that foreign fishermen can land their nonretention species and other bycatches of tuna in Hawaii."

I don't understand what you mean by "landing their nonretention species." If it's a nonretention species they shouldn't be landing it, should they?

Mr. **Agard**. Mr. Chairman, under the PNP in effect at the present time it's conceivable that after you reach TALFF, total allowable level of foreign fishing, they would have to cut loss in the matter of nonretention species, and it's felt it's possible to exceed the TALFF by maybe twice if you carry this out, so we are saying that they would not be permitted to waste the billfish.

They would load it aboard, since the United States declares ownership through its management miles of these species within the FCZ. The alternative would be in the proposal in the back of this testimony. It explains that they have the option to land it in an American possession or territory, or to pay us the value fee we are asking at the present time.

Mr. **Breaux**. With the option of landing a billfish?

Mr. **Agard**. Within the FCZ, the catch, they will not discard at sea. They will have to hold aboard this fish so that it would be landed in an American port, if we so desired. The expression was that it was not reasonable, the distance was too great to land this in an American port, then the waiver is asked for that purpose.

Mr. **Breaux**. Is it allowed by your fisheries management plan?

Mr. **Agard**. This is what we are exploring in the plan, to have them land the fish rather than discard, and for any reason if they would discard say billfish for a higher value catch of deep swimming tunas that are highly valued, then it would be possible to just discard the fish because of that, to save the refrigeration space aboard a vessel, and we don't feel that that is in the best interests of the fishery.

It does not benefit either the species nor man.

Mr. **Breaux**. We will have to continue to look at that particular aspect. I appreciate your testimony, and I think we can handle some of your concerns by technical amendments.

Mr. Bryson, I was interested in your suggestion on page 1 about a return to the conditional fisheries concept, and elimination of loan programs in those fisheries which are determined to be conditional.

We apparently are not making that determination in any fisheries right now, are we?

Mr. **Bryson**. We did at one time. The council would suggest to the Secretary of Commerce that a fishery be declared conditional, and Secretary Kreps did on one or two occasions. When the scallop fishery should have been declared conditional it was not.

Mr. **Breaux**. Should the declaration come from the council as a recommendation to Commerce?

Mr. **Bryson**. Yes. The recommendation came from the council to the Secretary, but the Secretary chose to wait for the plan to come out and the plan isn't out yet, so loans were made to vessels to enter scallop fisheries which was known at that time to be in trouble.

I think that type of loan program will only lead to the kind of chaos that will drop the total program at some time in the future. It should be carefully managed so we don't loan money for those species which we know are not going to be there next year.

Mr. **Breaux**. This would be a method whereby you would prevent overcapitalization of a particular fishery.

Mr. **Bryson**. Yes, sir.

Mr. **Breaux**. What about a person who wishes to get into business or to expand in the business and feels that he cannot make it only in an underutilized species or a fishery that is not conditional, and has to have a mix of taking some conditional fish and then some underutilized fish? How about a mixed concept, as opposed to a total prohibition of any loans for someone in a conditional fishery?

Mr. **Bryson**. Those conditional fisheries now, again I think maybe I was not clear as to what we are talking about or what I am trying to convey.

What we are suggesting is that you don't loan money for new vessels with that fishery that is already in trouble and there are already too many vessels presently there to harvest the species.

Mr. **Breaux**. My point on that would be how about a person who wishes to not only fish that particular species of fish but also has a mix of two or three or perhaps some other fisheries as part of his operation?

Mr. **Bryson**. I suspect if he is working the mixed fishery there will be no opportunity to deny him getting a loan anyway. His primary fishery would be something else anyway and he could always come back to that one.

I think that is pretty much automatically covered in the present loan program.

Mr. **Breaux**. Are there any species within your Council's jurisdiction that could perhaps be considered as a conditional fishery or at least bear studying at this time?

Mr. **Bryson**. Scallops were one that we felt should have been 2 years ago. Now the mid-Atlantic scallop is wiped out. It's pretty much done, going back to Georges Bank again. Loans were made and of course it was rather sad that some of them are now not being utilized, but most of the other species in our area seem to be coming on pretty good.

The two that we can see coming up as opportunities are quid and mackerel. The European countries have overfished mackerel very heavily the last 2 years, something like 225,000 metric tons each year over the limit, so there is a good likelihood the mackerel will be coming on as a fairly good species the next couple of years.

Mr. **Breaux**. I have been told that squid is an underutilized species.

Mr. **Bryson**. Very much underutilized.

Mr. **Breaux**. I thought you just listed it——

Mr. **Bryson**. No; as a potential for good fisheries in the next 2 or 3 years.

Mr. **Breaux**. What is your opinion of the bill's proposal to link the TALFF allocation to market access by foreign countries?

Mr. **Bryson**. If it goes far enough, to allow the Secretary to be able to postpone your time schedule or your——

Mr. **Breaux**. I am sorry; you are talking about the phaseout. I am talking about linking the TALFF allocation to market access to that foreign country.

Mr. **Bryson**. Fine; that is totally supportable by our Council.

Mr. **Breaux**. What is your position on the phaseout of foreign fishing?

Mr. **Bryson**. We feel the present phaseout concept is well intended but may not accomplish the goal because it leaves the Secretary too much flexibility to postpone the program indefinitely. We think that needs to be strengthened somewhat.

Mr. **Breaux**. How would you handle that, because I know you don't intend that if we have a phaseout schedule, that if the American fishing industry does not come in and take that amount of fish that can be taken within safe parameters, that those fish go to waste.

Mr. **Bryson**. That is correct. I think we have to make the fish available for world market, if we can't utilize them, but at the present time the real control of TALFF and surplus in TALFF is by the foreign markets. They are simply refusing to buy from us, thereby creating the surplus that they are coming over to take.

We have to find some means to break that barrier. Now a lot of that is internal barriers within the countries, their import quotas, et cetera.

Mr. **Breaux**. Cannot the Council address that problem in determining what is the optimum yield and the allowable catch within that zone?

Mr. **Bryson**. If NMF's current attitude is that we will have full utilization of species and that OY has to be totally justified if dropped below MSY, in other words, you have to have an overriding economic reason or plan to utilize the species and full utilization of OY then the Council will have problems handling this internally.

If it's clear that we don't have to have full utilization of OY, then perhaps the Councils can handle part of it.

Mr. **Breaux**. Thank you, Mr. Bryson and Mr. Agard.

Mr. Forsythe?

Mr. **Forsythe**. Thank you, Mr. Chairman.

Mr. Agard, from your testimony I guess the tuna fishery is the major fishery that is going on around the Islands; is that correct?

Mr. **Agard**. Yes, sir.

Mr. **Forsythe**. Can you give me any rough idea of what proportion of the total fishery the tuna fishery represents?

Mr. **Agard**. In Hawaii where I am most familiar, having worked in the cannery, I guess at least half of the total catch, the total fishery, is tuna. It contributes the largest amount singularly to our economy in the fisheries.

In Samoa, of course, it's much, much greater, the proportion, because I think in my last year that would be some 50,000 metric tons landed and processed in American Samoa, and we are only processing something like 12,000 metric tons per year in Hawaii.

Mr. **Forsythe**. As you point out, tuna are not included within the FCMA, and I am wondering what the potential is in the other fisheries so far as development and growth.

Mr. **Agard**. We have only the sea mount fisheries that we are not able to exploit. They are just beyond our range, but a thousand miles from Hawaii. That is exploited by the Russians, and we would like to but we don't have the technology at present, and the Japanese, fairly large fisheries up north.

We have some small mackerel fisheries, but outside of the tunas we don't have, well, we do have lobster. We have a good lobster fishery, but basically I think most of the landings in Hawaii and throughout the region are tunas.

Mr. **Forsythe**. Which makes it a little difficult to fold this into those plans that are tied to the Fisheries Management Act.

Mr. **Agard**. Except out in the outlying regions, where you would like for them to develop some of their small fisheries. They have abundant resources, yes, but they don't have any equipment and they lack infrastructure. They need this very badly.

Mr. **Forsythe**. The chairman pointed out there will be consideration of some of those barriers that you mention in your testimony.

Mr. Bryson, on this phaseout problem, you indicate that 10 percent is really not enough to interest development, and that the underlying problem is the trade barrier situation. If trade barriers could be broken so there were available markets, would the phaseout, be advisable?

Mr. BRYSON. I think so, when we have other countries able to fish our waters at much cheaper prices, labor, fuel, et cetera, than our own fishermen, and sell back into our markets, we have some problems. Currently, Canada, with fuel at roughly 36 cents a gallon, Mexico with fuel roughly 20 cents a gallon, offer some very tough competition for our fishermen, who have other requirments they have to meet, such as U.S. built vessels, et cetera, so I think our people are at disadvantage and need some type phaseout.

Mr. FORSYTHE. In essence you are telling me that we need some tariff barriers of our own against foreign fish coming into the United States, in some way to balance that problem. At the same time we are screaming for a breaking of tariff barriers or trade barriers in terms of export.

Mr. BRYSON. Yes, sir. That is the reason we suggested the fee schedule, which would escalate to a point it wouldn't be unprofitable to fish here, except for those countries who enter into a fisheries agreement with us to either buy fish or a joint venture type operation. This would get rid of the tariff problem here and gets to their internal barriers.

Mr. FORSYTHE. If we had a fee schedule, a tariff, so far as importing, to equalize the cost so far as those fish are concerned and be able to trade off and that kind of a basis so far as the foreign barriers are concerned, do you think it would have some effect?

Mr. BRYSON. Yes, sir. As an example, I think these figures are in thousands of pounds. For something like 47,000 of ground fish under the quota, was at 1.875 cents, and 210,000 over quota at 2.5, so if we are going to charge a great big 7/10 of a cent penalty for overquota imports, then we are not helping our people an awful lot.

The west coast, for example, is trying to develop pollock. At this time this is happening, we are increasing our TALFF to Korea, who is importing them directly back into our markets, so it's a little tough on our people right now.

Mr. FORSYTHE. There has been a suggestion that in addition to a phaseout of the harvesting of the fishermen, that we also phase out foreign processing. What is your reaction to that?

Mr. BRYSON. The joint venture concept, where we have U.S. vessels catching for foreign processors probably for the next few years is one of the means which we can get into those markets faster, and until we can get our own freezer trawler vessels and start to compete with those vessels maybe we shouldn't close that out too fast, but certainly when the joint venture starts to interfere with shoreside processing our council feels it should be phased out immediately.

Mr. FORSYTHE. Do we have the same economic problem with offshore processing compared to onshore processing? In other words, our cost for land processing is substantially higher than for offshore processing.

Mr. **Bryson**. Yes; at this point our shoreside processing is higher than the foreign vessels processing offshore. I don't think when we have our own vessels processing offshore that the costs will be too much of a differential.

Mr. **Forsythe**. You say that 10 percent in the initial phasedown needs to be higher. Do you have a number in mind that you think would be correct?

Mr. **Bryson**. I think you will have to consult with the people in NMFS and find out what part of the market potential we could hope to take and then put that figure high enough that the foreigners would want to buy from us that year.

I would suggest it has to be substantially higher than 10 percent, maybe 35 to 40 percent. We tried to do this concept somewhat in two of our plans whereby we would withhold from the TALFF a large portion of that TALFF until at least half of the year had expired. That was for twofold, to give our fishermen a chance to get into the market and hope we could by that means persuade the foreigners to start buying the fish from us.

We were turned down on both of those plans.

Mr. **Forsythe**. By the Secretary?

Mr. **Bryson**. Yes, sir. They did not conform with the so-called national standard one. That is a matter of interpretation. I think our interpretation and yours is probably different from Commerce at this point, and they felt we had to guarantee full utilization of OY. We didn't feel that way.

I don't think you do.

Mr. **Forsythe**. Do you have any suggestions as to recommended language that would be useful in solving this problem of interpretation of TALFF?

Mr. **Bryson**. We are trying to in our own council now be sure we understand exactly what the FCMA intended us to do, and we will be meeting with your staff in the very near future. Anything you can do to clarify the national standards and the process by which NMFS commerce approves a management plan and what they should review in approving that plan would be helpful.

The councils we think have a good pulse on the fishermen, are working very closely with the fishermen, and we believe, at least our council believes and perhaps I should state, our director believes, not speaking for the whole council, that the intent of FCMA was that the councils help set U.S. policy in fisheries.

I don't know that we are doing that right now. I think it should be clarified.

Mr. **Forsythe**. That is what we thought. Do you approve of the extension of the capital construction funds to onshore fisheries?

Mr. **Bryson**. Very much so, sir.

Mr. **Forsythe**. Thank you very much, Mr. Chairman.

Mr. **Breaux**. Mr. Wyatt?

Mr. **Wyatt**. Thank you, Mr. Chairman.

Mr. Bryson, I have one followup question to Mr. Forsythe's last question, I guess I should say.

The regional fishery councils, their recommendations are not being fully incorporated in policy. Could you expand on that in some manner and give us more insight into what your concern is, or the lack of input, the reason that the input is not being heard?

Mr. **Bryson**. Let me back off and not speak for the council at this point but speak for myself as director. We feel that we have a very good, as I said earlier, a very good handle on the pulse of fishing and the problems of the fishermen.

Yet when we try to write a plan that would give our fishermen some edge in developing into underutilized species such as mackerel and squid both were this year, only to come up against an interpretation of national standard 1, which would argue that you had to fully utilize OY and you had to really make this wide open allocation to TALFF to do that, as an example, they would like for us to start allocating more squid from reserve to TALFF the second and third months of the fishing year.

That is hardly an opportunity for our people to start development of market when you allow the foreigner to come in the second and third months with increased allocations. All he has to do is wait you out. Why should he buy anything?

I think that is what has happened all the way through. We are letting the foreigner control our fisheries simply waiting for a period of time, knowing then he will get the surplus and he can create a larger surplus by simply not buying.

Mr. **Wyatt**. If I may pursue that, why do you think that Commerce would take that approach? Are they unfamiliar with the problem, or are they unsympathetic to the problem?

Mr. **Bryson**. No; I don't think that is the case. I think this concept probably started with our own fisheries on the west coast where in the tuna industry we wanted to promote that concept.

I think the only country that has bought it so far has been us, so we are trying to promote a concept maybe that might have merit across the world fisheries, if it was accepted by everybody, but so far it hasn't been and other countries having 200 miles fisheries acts have not seen fit to make everything available to everybody.

Mr. **Wyatt**. What you are saying is we may have a a good theory, but the theory doesn't work; therefore it's time to back off of it and take I guess another approach, and that is what I think you have recommended here in your recommendations.

They don't want to play in our ball park by our rules, in essence.

Mr. **Bryson**. Yes. As long as they can put these barriers such as, no squid that isn't frozen aboard a vessel can be sold in Spain, and Japan with import quotas that are basically controlled by three major importers, we have problems. In fact we had minor Japanese importers over here last year trying to buy butterfish because they wanted the product, major importers were not buying and they weren't importing, and the minor importer couldn't do it because he couldn't get the quota from his own country.

These are some of the things we are facing. It wasn't that the Japanese market didn't need our fish. It was major importers. I think, you have to try to guess what they are thinking, but if they don't buy and prove to us they don't need the fish, under the present concepts they can get a larger allocation under surplus next year.

Now, there are other butterfish available throughout the world, but on the Japanese market in our Embassy survey, the Atlantic Coast butterfish brought a price of about 60 percent higher than any other, so I think the demand is there so somebody is playing games.

Mr. Wyatt. When you say our Embassy took that they didn't get that information then to Commerce?

Mr. Bryson. Commerce has the copies. I got my copy from Commerce.

Mr. Wyatt. Do you have any idea why they didn't then act on this or did they act?

Mr. Bryson. I think they acted in the manner which they thought appropriate through the trade missions but I guess as NMFS probably testified earlier this week, as I understand they were going to, they preferred to negotiate, and what I am suggesting is they have the lock-out route whereby if the countries really want to fish off the east coast they will have no choice but to cooperate or they are going to pay a higher price.

Mr. Wyatt. Thank you.

Thank you, Mr. Chairman.

Mr. Breaux. Mr. Pritchard?

Mr. Pritchard. I have no questions.

Mr. Breaux. Gentlemen, we thank you very much for your presentation. It has been most helpful and very interesting.

My hometown got 22 inches of rain over the weekend, which is not very good news for an already very seriously depressed fishing industry, with some very serious economic and problems in general.

We welcome the panel very much. We look forward to cooperating with all of you and hearing your testimony this morning.

TEXAS PANEL: R. E. CLEGG, R. E. CLEGG SHRIMP CO.; SID HERNDON, PRESIDENT, HERNDON MARINE PRODUCTS; JULIUS COLLINS, PRESIDENT, J. COLLINS TRAWLERS; WALTER ZIMMERMAN, VICE PRESIDENT, MARINE MART; JOHN P. JACKSON, JACKSON SEAFOOD CO.; AND ALBERT B. SILCHENSTEDT, VICE PRESIDENT, ROCKPORT YACHT & SUPPLY CO., INC.

STATEMENT OF MR. ZIMMERMAN

Mr. Zimmerman. Mr. Chairman and members of the subcommittee, my name is Walter W. Zimmerman.

I have been in this shrimp business for 27 years. I, along with my brothers, am in the business of constructing shrimp trawlers, repairing shrimp trawlers, selling supplies to shrimp trawlers, operate 16 trawlers and own an interest in a shrimp processing plant in Port Isabel, Tex.

I am also a director of the Texas Shrimp Association. Our association represents the shrimp producers on the Texas gulf coast. Most of our membership are small business people and just one boat owner.

I have been asked by the Texas gulf panel to be panel leader and, as such, will coordinate our testimony today.

In the interest of time, each member will address pertinent points of concern to our gulf shrimp industry.

I request that each member of the Texas gulf panel's testimony be submitted in the hearing record in full. Once we have completed our panel, we would be happy to respond to questions you may have.

If I may, I would like to begin at this time. I wish to commend you, Mr. Chairman, and Mr. Forsythe, and members of your staff, for the development and introduction of a well put together bill. We in Texas, on the Texas gulf, support H.R. 7039 and would ask that you consider suggested changes and possible expansion of some of your provisions.

[The prepared statement of Mr. Zimmerman follows:]

STATEMENT OF WALTER ZIMMERMAN

Mr. Chairman and Members of the Subcommittee:

My name is Walter W. Zimmerman. I, along with my brother, am in the business of constructing shrimp trawlers, repairing shrimp trawlers, selling supplies to shrimp trawlers, operate 16 shrimp trawlers and own an interest in a shrimp processing plant in Port Isabel, Texas.

In reviewing House Bill 7039, it appears to be a well thought out, put together bill. We wish to commend Congressman Breaux, his staff and all others concerned in the development of H.R. 7039 on the final results of their work. The only disagreement we have with H.R. 7039 is in Section 212 -- Fisheries Loan Fund. We do not believe those vessel owners who have Title XI guaranteed loans should receive any priority of assistance. Any loan assistance to be granted should be given to anyone as long as he meets the prescribed prerequisites.

This concludes our feelings on H.R. 7039 itself, but does not conclude our feelings as to the effects of this bill. Our first thoughts are that when this bill is finally enacted, what American Fisheries is it going to promote? If present trends continue, we can assure you those vessel owners and the shrimp fisheries will not exist to derive any benefits from H.R. 7039. We are presently in a downward spiral as is the rest of the American economy and are willing to suffer our share of economic grief as will all American people and business. However, we have one other burden that most American business does not have and that is competition from a foreign shrimp fishery that to our knowledge are subsidized by their governments in some form or fashion, primarily in diesel costs. At the present date, our diesel fuel cost is .92¢ per gallon as compared to Mexico's .17¢ per gallon or Venezuela's .09¢ per gallon. The fuel differential using present diesel fuel costs for 1980 and average diesel fuel costs for other years is as follows:

	Mexico	Venezuela
1980	.75	.83
1979	.50	.58
1978	.22	.30
1977	.20	.28
1976	.18	.26

As compared with our own vessels, average receipts per pound, each of these countries' shrimp producers would have a per pound average received, after diesel fuel deductions of the following:

	U.S.	Mexico	Venezuela
1979	3.09	3.72	3.80
1978	2.51	2.75	2.83
1977	1.97	2.12	2.20
1976	2.33	2.49	2.57

Our records reflect that the gross income, after deduction of diesel fuel only, is as follows:

1979	78%
1978	86%
1977	87%
1976	88%

We could continue to show more facts and figures that would do no more than add length to this statement. These same facts and figures, we are sure you will hear and read several times. The information we have put forth leaves one simple conclusion: the shrimp fishery is heading toward bankruptcy and will soon cease. The cause of this situation is high diesel fuel cost.

The solution to this situation is very simple, impose a tariff on imported shrimp and pass these funds back to the American shrimp fishery. We know the two basic arguments against this are that this would raise the price to the American consumer and the United States would be taking a "protectionist" attitude on imports. With regards to the first argument of increased price to the consumer, shrimp today is 30% less than a year ago, but if you will check the restaurants or grocery store, you will see that prices have not decreased. This has always been a marketing problem that producers never understand. Also, if we go broke and this country has to import all its shrimp, the price could be much higher. With regards to the last argument of the America government protecting a part of its economy, I personally cannot see anything wrong with this. The American government in the past has had a free market attitude. This is good if our industry can compete fairly. There is no way we can compete against governments. It is time the American government adopt the attitude to help its people and not the world, and that the United States comes first -- not last.

Thank you.

Mr. **Zimmerman**. At this time, I would like to have Mr. R. E. Clegg to comment on the fisheries loan fund and the current status of the shrimp industry.

STATEMENT OF MR. CLEGG

Mr. **Clegg**. My name is Robert E. Clegg. I reside in Port Laaca, Calhoun County, Tex. I am president and owner of Atlantic Fisheries, Inc., a shrimp fishing company owning and operating typical Gulf of Mexico shrimp trawlers.

I am also the owner and president of R. E. Clegg Trawlers, Inc., a shore facility engaged in the supplying, servicing and managing of shrimp trawlers.

So that I may qualify my presence before you, I make the following statement: I made my first trip into the Gulf of Mexico aboard a shrimp trawler at the age of 6 years. I began working summers as a deckhand at the age of 13. I purchased my first trawler at the age of 25 and have successfully owned and operated my own business for the past 25 years.

My experience has been from actually fishing a trawler myself, managing a small family shrimp processing-distribution business and establishing and operating a shrimp trawler supply and service company.

The shrimp fishing business is the only full-time business activity I have ever engaged in. My reputation throughout the industry is good and I have worked hard to make it that way.

This is my first-ever appeal to the Government to do something to help me and my business. It is a common fact of record that I am known in our industry trade associations as one that usually talks against many Government programs, especially those that result in some sort of help or handouts to a selected few.

I have never, even though there have been previous crisis years, ever borrowed from Government or asked for a Government guaranteed loan. There have been hard times in the past, but I somehow survived on my own.

Hard times are here again, and if I could just figure out how to overcome or compensate for the high cost of diesel fuel, my feeling is that I could probably survive.

Due to my philosophy or feeling that one should not expect Government to always solve all our problems for us, my appearing before you today, appealing for help, is somewhat distressing to me.

I do so only because unless something is done my business, and the entire U.S. Gulf of Mexico shrimp fishery, is going down the tube of obliteration.

I have a 19-year-old son and a 27-year-old son-in-law, both who have just recently become interested and have entered the business with me. Will they be able to continue? I certainly hope so.

My business boat operations operate on a fiscal year ending each February 28. I previously submitted opening statements to the committee for 3 years for the periods covering November 30 to February 28 each year.

You will find that the total operating income in those periods ending February 1978 and February 1979 increased somewhat each year, as it does historically during this period when conditions are normal and stable.

The statements for the period November 30, 1979, through February 1980 show a substantial decrease in the total operating income. In other words, what I am trying to tell you is that the months of December, January, and February, after the cost of fuel went up substantially at that time, where we normally would show a profit in those 3 months' operation, we showed a substantial loss.

It was at this time, February 29, 1980, that I made the decision to tie all of my vessels to the dock. All of my crews have gone to other jobs or they are drawing unemployment compensation, food stamps.

The interest on my boat mortgage goes on. The insurance expenses for those boats goes on. The expenses of keeping the shore facility operative and at the rate of $30,000 a month goes on.

Now, certainly it doesn't take much figuring to realize that I have a very, very serious negative cash flow. I plan to hang in there through August, at which time the present rate of this negative cash flow, I will probably be depleted of cash.

If there is not some change for the better down there by the end of August, I may be forced to dismiss all or most of our shore facility personnel and just cease doing business.

We had an SBA disaster declaration within this past year. I was recently denied an SBA disaster loan on the grounds that basically stated my personal credit resources, my equity in my boats, and such, were such that I did not qualify for an SBA loan.

Well, sure, I have got good personal credit, sufficient equity in my boats to refinance, but I cannot afford today's 16- to 18-percent interest and the short terms offered.

Now, I have reviewed Congressman Breaux's bill. I am particularly interested in the fisherman's loan provision. But it does nothing for me, not now. I need something now.

Sure, it provides low interest loans to vessel owners in danger of defaulting on their mortgages. But I note that priority goes to those vessel owners that have title XI guaranteed loans.

I and many, many, many of my colleagues do not have such loans. What am I supposed to do? Will my bankers be willing to refinance my vesels with the industry in the economic crisis it is now in? It is not likely. But even if they would, I cannot afford the current interest rate.

Now, this fisherman's loan fund provision needs expanding two ways.

The first, the fisherman's loan fund must apply to all, every one of us, to all fishing vessel owners.

Second, the loans must be made available for not just mortgage and interest payments. There must be loans available also to cover the difference between the cost of operations and revenues from production during this current crisis, and maybe even to cover the cost of modifying the rigging on your vessel to maybe go after another fishery, supplemental fishery.

Now, I want to reemphasize, we need help now. Now, this fund needs to be activated immediately. As I understand it, there is not all that much money available presently. But it does need to be activated, and there needs to be funds put in there immediately. We don't have much time left.

Thank you, gentlemen.

[The prepared statement of Mr. Clegg follows:]

STATEMENT OF ROBERT E. CLEGG

Mr. Chairman and Members of the Subcommittee:

My name is Robert E. Clegg. I reside in Port Lavaca, Calhoun County, Texas. I am President and owner of Atlantic Fisheries, Inc., a shrimp fishing company owning and operating typical Gulf of Mexico shrimp trawlers. I am also the owner and President of R.E. Clegg Trawlers, Inc., a shore facility engaged in the supplying, servicing and managing of shrimp trawlers. So that I may qualify my presence before you, I make the following statement: the Clegg family has been in the shrimp fishing business for over 50 years. I made my first trip into the Gulf of Mexico aboard a shrimp trawler at the age of six years. I began working summers as a deck hand at the age of 13. I purchased my first trawler at the age of 25, and have successfully owned and operated my own business for the past 25 years. My experience has been from actually fishing a trawler myself, managing a small family shrimp processing-distribution business and establishing and operating a shrimp trawler supply and service company. The shrimp fishing business is the only full-time business activity I have ever engaged in. My reputation throughout the industry is good, and I have worked hard to make it that way.

This is my first-ever appeal to the government to do something to help me and my business. It is a common fact of record that I am known in our industry trade associations as one that usually talks against many government programs, especially those that result in some sort of help or handouts to a selected few. I have never, even though there have been previous crisis years, ever borrowed from government, or asked for a government guaranteed loan. There have been hard times in the past, but I somehow survived on my own. Hard times are here again, and if I could just figure out how to overcome or compensate for the high cost of diesel fuel, my feeling is that I could probably survive. Due to my philosophy or feeling that one should not expect government to always solve all our problems for us, my appearing before you today, appealing for help, is somewhat distressing to me; and I do so only because unless something is done, my business, and the entire U.S. Gulf of Mexico shrimp fishery is going down the tube of obliteration. I have a 19 year old son and a 27 year old son-in-law, both who have just recently become interested and have entered the business with me. Will they be able to continue? I certainly hope so.

GULF OF MEXICO SHRIMP FISHING INDUSTRY

The Gulf of Mexico shrimp fishing industry is in serious trouble that it cannot get itself out of. The world energy crisis and resulting inflation is the major or number one cause of our troubles. The consumer is cost conscious, and auto travel is on the decrease, thereby causing a decrease in shrimp consumption. Inventories of shrimp are building, causing a drop in prices. Diesel fuel prices are at such a high level that it makes it impossible to operate a shrimp trawler profitably. The annual catch per vessel keeps decreasing each year.

The number two cause of our industry troubles is our own United States government policy as it affects fisheries. For example, the American shrimp fisherman is the best shrimp fisherman in the world, and he has developed and fine-tuned the art of catching shrimp to where no one can compare, but in spite of this, the annual catch per vessel has dropped significantly over the years, and U.S. government policy has contributed to this drop. The Fishing Vessel Obligation Guarantee Program and other government loan programs over the years have been responsible for the overbuilding of the U.S. Gulf of Mexico shrimp fleet. The Capital Construction Fund Program has also been a contributor in this overbuilding of trawlers. Another recent example that has caused the catch per vessel to drop is the overfishing of the shrimp resource in the inland nursery areas. The U.S. government's policy of relocating the Vietnamese refugees to the Texas coast has resulted in creating a market for the old and inefficient inland bay boats that are sold to the Vietnamese. The sellers of these old boats then use the proceeds to build larger and more powerful boats to continue fishing these same baby shrimp in these same inland nursery areas. Therefore, fewer baby shrimp are able to complete their life cycle by naturally migrating to the open Gulf waters where they can grow to adulthood and be harvested at a larger size, which results in a higher yield both in volume, weight and dollars. Allowing more shrimp to migrate and reach adulthood results in more adults being available to spawn and reproduce. They naturally spawn in the open Gulf waters.

And speaking of the Vietnamese situation on the Texas coast, I am reminded of a question that needs asking - will these Vietnamese fishermen be eligible for these Title XI loans? When and if so, it will cause more overbuilding of the Gulf of Mexico shrimp fleet.

Another example of government contributing to our crisis is the policy of allowing foreign shrimp to enter this country duty-free, and to top it off, then expect us to compete in a the marketplace with this foreign shrimp that can undersell us because those countries from whence this shrimp came subsidize the cost of diesel fuel to their fishing fleets. I am told that the cost of diesel fuel in Mexico to a shrimp trawler is equal to approximately 17 U.S. cents per gallon, as compared to our cost of 90-95¢ per gallon. In past crisis years, when we were undersold by foreign imports, they could do so because of their cheap labor and cheap or low-cost vessels. Well, the foreign labor costs are now up, and they now have modern and expensive vessels just like ours. And when finally, after 20 years, we think we're on an equal cost-per effort basis, this subsidized fuel thing comes along. If our government is going to invite the importation of the foreign shrimp to our market, it should demand something in return for our U.S. fishermen, and in the case of Mexico, we should demand that if they are going to sell here, we fish there, thereby spreading out the U.S. Gulf fleet, which should result in an increase in the catch per vessel.

TRAWLER OPERATIONS AND CASH FLOW

Trawler operations ceased being profitable after November, 1979, and our cash flow for the entire year was not at a level sufficient to meet obligations. Atlantic Fisheries, Inc. operates on a fiscal year beginning March 1 and ending February 28. As of November 1979, the operating statement showed a total net operating income, before depreciation of $96,053.49. During the last quarter of 1979 and the first quarter of 1980, the industry experienced dramatic increases in the cost of diesel fuel, as well as substantial increases in other necessary goods and services. During this same period, the prices received per pound for shrimp dropped approximately 20%, whereas prices historically rise during this period. This resulted in our receiving, for example, $1.46 per pound less for the 15/20 size on March 31, 1980, as compared to March,1979. All of these factors resulted in a net operating income for the entire year, ending February 29, 1980, only three months later, to show only $54,496.73. And this is before depreciation. This is approximately $61,000 short of being sufficient cash flow to meet our annual boat markets payments.

Our operating statements for the periods ending November 1978 and February 1979 indicate that the total operating income increased somewhat, as it does historically during this period, when conditions are normal and stable. Our records for the period November 1977 through February 1978 will also show some increase in the total operating income. It was at this time, February 29, 1980 that I made the decision to tie all of the vessels to the dock. All of my crews have gone to other jobs or are drawing unemployment compensation and food stamps. The interest on my boat mortgages goes on, and the insurance expense on the vessels continues. Our related shore facility expenses continue at the rate of approximately $30,000 per month. Now it certainly does not take much figuring to realize that I have a very, very serious negative cash flow. I plan to try to hang in through August, at which time, at the present rate of negative cash flow, I will probably be depleted of cash. If there is not some change for the better by the end of August, I may be forced to dismiss all or most of our shore facility personnel and cease doing business. I was recently denied an SBA disaster loan on grounds that basically stated that my personal credit and resources, for instance, equity in my boats, was such that I did not qualify for an SBA loan. Sure, I have good personal credit, and sufficient equity in my boats to refinance, but I cannot afford today's 16-18 percent interest and the short terms offered.

CONGRESSMAN BREAUX'S BILL, H.R. 7039

I have reviewed Congressman Breaux's bill, entitled "American Fisheries Promotion Act". This bill, I feel, does nothing for me now, and I need something now. Sure, it provides low-interest loans to vessel owners in danger of defaulting on their mortgages, but I note that priority goes to those vessel owners that have Title XI guaranteed loans. I do not have any such loans. What am I supposed to do? Will my bankers be willing to refinance my vessels with the industry in the economic crisis it is now in? They will probably be forced to, since there would not be a market for repossessed used shrimp trawlers. But could I afford the current interest rate? I think not. The bill calls for amendment to section 101, providing S/K monies to non-federal fisheries development projects. I have no negative feelings on this, except to state that this proposal could result in federal monies being used to benefit a selected few, and not the fishing industry as a whole. I cannot support a government program that benefits just a few.

The proposal calling for an S/K project to deal with fuel efficiency would, if successful, be one that would benefit all fishing vessel owners. I would welcome this. But again, I must remind you: this would take time, probably years, and I need something now. An S/K project that would deal with enhancing fish quality would also be a worthwhile project, but again, this is one that does not help now, in this time of immediate need.

I would not be against the proposed amendment to expand the Capital Construction Fund to include shoreside fisheries facilities, and the other proposed uses of the Capital Construction Fund as listed in the bill.

Now comes the part where I see a worm in the apple. If I interpret correctly the provision providing for the expansion of the Title XI Loan Guarantee Program, I can see a method of one receiving 100% government money to enter, for example, the tuna and/or other fish processing and canning business on the Gulf of Mexico coast. A longline,tuna fishery is now beginning to develop on the Gulf, but there are no nearby shore facilities on the Gulf to purchase and process these fish. So, it appears to me that a person could conceivably get a 75% federal grant and a 25% federally guaranteed loan to establish a fish processing facility to handle this new developing fishery, and not have to put up even one dollar of his own money. Even then, this might not be objectionable if it were limited to a fishing co-op or a community development organization. But for an individual to be able to do so is again giving away government money to help a very selected few, possibly just one person. I can even visualize one acquiring a new vessel for the purpose of developing a new fishery. He gets a 75% grant and a 25% loan guarantee, makes a somewhat gesture at developing the new fishery, then gives up and converts the vessel to an existing fishery. In the final shakeout, he ends up with a fine new vessel that only cost him 25% of the original cost, and that 25% was provided by the loan guarantee;_and we then have added another vessel to the American fleet, at no original investment to the owner, so that he can compete with us that have worked so hard to get where we are today. History and common sense tell us that it usually takes some of one's own hard-earned money and plenty of hard work, worry and sweat to make a new venture successful, and without one's hard-earned money on the line, the interest in the new venture fades quickly.

May I suggest to this Committee that they try to come up with a program to help all of us in the U.S. fishing industry, now in this time of crisis. My suggestions, in addition to those I favor in Congressman Breaux's bill, are as follows:

1) Provide low interest loans for survival purposes in this time of crisis, that would be available to all of us, based on some formula that would not tend to favor the weak and penalize the stronger, or vice-versa.

2) Establish a nationwide advertising program promoting fishery products using all the media available. Fund this project by imposing a small duty on these fishery products that are imported and using S/K funds for the U.S. share. The ultimate goal of this program would be to raise the per capita consumption of fishery products in this country.

3) Establish a fuel rebate plan patterned after the rebate system of some states that exempt gasoline powered motorboats and airplanes from the state gasoline tax. The monies to fund this could come from the windfall profits tax or an import duty on fishery products that come from countries that subsidize fuel costs to their fishing fleets; some such provision could be incorporated in this proposal.

4) Require countries such as Mexico, that wish to market their fishery products in this country to allow U.S. fishing vessels to also fish for that same fishery product in their waters and to do so without having to use Mexican crews or offload in Mexico. In other words, tell Mexico and these other countries, if you sell here, we fish there.

ATLANTIC FISHERIES, INC.
OPERATING STATEMENT
FEBRUARY 29, 1980

	[illegible] V	Trawler H. Coyle	Trawler Mr. John	Trawler Mr. Herman	Trawler Robert A	Trawler Edward L	Trawler Sherry Ann	Trawler Ruth Eileen	Trawler Cracker Box	TOTALS
INCOME:	[illegible]	$130,032.59	$124,145.52	$153,948.42	$174,831.16	$137,730.85	$189,868.96	$ 158,028.34	$5,363.45	$1,161,281.13
EXPENSES:										
Shares	$26,218.62	$ 42,036.98	$ 36,743.09	$ 50,931.62	$ 56,940.98	$ 43,892.14	$ 59,182.95	$ 48,663.16	$ 1,333.97	$ 366,043.51
Adm. Fees	2,400.00	2,400.00	2,400.00	2,400.00	2,400.00	2,400.00	2,400.00	2,400.00	400.00	19,600.00
Fuel & Oil	29,627.79	35,493.80	40,612.21	39,867.21	43,678.43	41,282.78	54,235.99	54,085.92	3,320.25	342,204.38
Ice	3,256.35	3,016.20	3,119.70	3,357.30	3,728.35	3,709.35	3,600.82	3,186.30	137.50	27,162.37
Net Repairs	2,767.55	1,951.50	1,956.00	2,173.50	1,626.00	2,110.75	974.25	1,712.25	708.00	15,979.80
Marine Supplies	17,555.31	11,963.38	14,194.12	12,629.23	10,053.01	10,736.65	27,259.45	26,740.62	4,191.86	135,323.63
Groceries	3,365.38	2,724.27	6,394.25	3,004.55	3,734.12	4,131.46	6,447.77	5,657.24	638.87	36,147.92
Repairs	3,952.74	3,824.68	9,645.15	2,637.56	2,788.73	2,316.18	5,734.63	4,122.38	-0-	35,022.05
Health Insurance		258.57	386.97	354.87	386.97	124.02	353.10	354.87		2,219.37
Miscellaneous	225.00	285.50	325.00	379.53	529.16	375.00	1,064.80	767.80	539.80	4,541.59
Total Oper. Ex.	$ 89,358.74	$ 104,004.88	$ 115,776.49	$117,735.38	$ 125,866.25	$111,078.33	$161,253.76	$ 147,690.34	$11,470.25	$ 984,744.62
Oper. Income (Loss)	$ ([illegible])	$ 26,027.71	$ 8,369.03	$ 36,213.04	$ 48,964.91	$ 26,652.52	$ 28,615.20	$ 10,337.80	$(5,006.80)	$ 177,[illegible]
OTHER EXPENSE										
Interest	[illegible]	6,741.00	7,295.73	7,295.73	7,656.09	7,656.09	9,044.90	9,044.90		[illegible]
Insurance	7,514.73	7,414.73	7,414.73	7,414.73	7,713.35	7,713.35	8,609.18	8,609.18		[illegible]
Total Other Expense	[illegible]	14,155.73	14,710.46	14,710.46	15,369.44	15,369.44	17,654.08	17,654.08	-0-	[illegible]
Net Oper. Income	$ ([illegible])	$ 11,871.98	$ (6,341.43)	$ 21,502.58	$ 33,595.47	$ 11,283.08	$10,961.12	$ (7,316.28)	$(5,006.80)	$ [illegible].73

NO DEPRECIATION INCLUDED

CORPORATE EXPENSES:		
Officer Salary	$ 24,000.00	
Profit Sharing Plan	3,600.00	
Officer Insurance	4,716.28	
Taxes	8,015.70	
Legal Fees	2,650.00	
Interest	712.87	
Misc.	19.00	
Trawler "Cracker Box" Lease	15,000.00	
Total Corporate Expenses	$ 58,713.85	$ 58,713.85
Total Corporate Income		$ (4,217.12)
OTHER INCOME:		
[illegible]	[illegible].31	
[illegible]	[illegible]	
Misc.	[illegible]	
Total Other Income	$ [illegible]	$ [illegible]
[illegible]		$ [illegible]

[illegible], INC.
OPERATING STATEMENT
NOVEMBER 30, 1979

	TRAWLER FATHER V	TRAWLER MISS CONNIE	TRAWLER MR. JOHN	TRAWLER MR. [illegible]	TRAWLER BOBBY B	TRAWLER EDWARD L	TRAWLER SHERRY ANN	TRAWLER RUTH ELLEN	TOTALS
INCOME	[illegible]	110,800.30	117,820.01	129,937.22	153,0[illegible].51	114,860.65	153,994.58	[illegible]	968,401.89
EXPENSES:									
Shares	20,278.41	36,044.70	35,579.11	43,265.30	50,122.96	36,635.43	42,187.20	38,365.61	302,478.72
Adm. Fees	1,800.00	1,800.00	1,800.00	1,800.00	1,800.00	1,800.00	1,800.00	1,800.00	14,400.00
Fuel & Oil	18,952.49	21,861.19	35,541.24	29,343.12	34,785.55	30,993.07	38,679.82	37,731.83	247,888.31
Ice	2,375.10	2,333.70	2,954.70	2,704.80	3,447.60	3,356.85	3,349.57	2,740.05	23,262.37
Net Repairs	2,248.55	1,512.00	1,794.00	1,492.50	1,317.00	1,563.75	974.25	1,350.75	12,252.80
Marine Supplies	14,256.52	11,085.07	12,652.20	10,815.86	7,225.90	9,053.96	24,300.02	22,586.55	111,976.08
Groceries	2,363.33	2,070.32	5,426.30	2,322.25	3,138.60	3,399.35	4,355.26	3,777.83	26,853.24
Repairs	519.45	1,285.68	9,595.15	2,433.56	2,752.73	2,278.35	5,690.88	3,870.47	28,426.27
Health Insurance	-0-	226.47	226.47	226.47	290.67	27.72	192.60	226.47	1,416.87
Medical Expense	-0-	-0-	-0-	-0-	54.16	-0-	-0-	-0-	54.16
Miscellaneous	225.00	225.00	325.00	379.53	475.00	375.00	764.80	597.80	3,367.13
Total Operating Exp.	63,018.85	78,444.13	105,894.17	94,783.39	105,345.97	89,483.48	122,294.40	113,067.35	772,311.75
Operating Income	3,68[illegible].39	32,356.17	11,925.84	35,153.83	47,675.54	25,377.17	31.700.18	8,221.02	196,090.14
Other Expense:									
Interest	4,232.86	5,164.11	5,162.17	5,162.17	5,896.49	5,896.49	6,762.44	6,762.44	45,039.17
Insurance	6,545.19	6,545.19	6,545.19	6,545.19	6,808.79	6,808.79	7,599.57	7,599.57	54,997.48
Total Other Expense	10,778.05	11,709.30	11,707.36	11,707.[illegible]	12,705.28	12,705.28	14,362.01	14,362.01	100,036.65
Net Operating Income	(7,097.66)	20,646.87	218.48	23,446.47	34,970.26	12,671.89	17,338.17	(6,140.99)	96,053.49

CORPORATE EXPENSES:		
Officer Salary	18,000.00	
Officer Insurance	1,469.62	
Taxes	2,004.15	
Legal Fees	2,500.00	
Interest	398.74	
Misc.	10.00	
Total Corporate Exp.	24,382.51	24,382.51
Total Corporate Income		71,670.98
Other Income:		
Interest Income	21,311.14	
Misc.	1,857.00	
Lease Income E.S.	10,791.00	
Total Other Income	33,959.14	33,959.14
TOTAL N. I. INCOME		105,630.12

ATLANTIC FISHERIES, INC.
OPERATING STATEMENT
28 FEBRUARY 1979

	Trawler Mr. Frank	Trawler Father V	Trawler Mr. Perry	Trawler M. Connie	Trawler Mr. John	Trawler Mr. Herman	Trawler Robert R	Trawler Edward L	Trawler Sherre Ann	Trawler Ruth Eileen	Trawler High Stks.	Trawler Six Kids	TOTALS
INCOME:	94,523.48	134,813.37	7,266.00	149,266.99	121,534.60	151,574.74	122,477.60	164,827.47	-0-	-0-	19,783.50	15,040.00	781,1[illegible]7.
EXPENSES:													
Shares	29,054.16	43,427.00	2,190.78	49,603.82	36,515 47	49,872.93	39,830.26	53,057.49					303,551.
Adm Fees	2,000.00	2,400.00	400.00	2,400.00	2,400.00	2,400.00	2,400.00	2,400 00					16,800.
Fuel &Oil	20,732.94	23,140.03	1,602.85	24,041.96	25,399.80	22,717.11	18,905.27	27,468.07	1,803.50	1,803.50			167,615.
Ice	3,039.30	2,340.00	159.00	2,617.20	2,756.70	2,957.05	3,355.80	3,023.70					20,548.
Net Repairs	1,353.00	1,619.50	159.00	1,251.00	1,222.50	4,383.30	454.50	975.75					11,413.
Marine Supplies	14,585.61	16,196.84	1,970.06	14,295.58	11,105.86	15,494.12	24,164.02	23,372.43	255.44	255.44			121,695.
Groceries	3,993.75	3,398.12	352.32	2,304.78	5,735.24	2,833.35	2,657.87	4,248.55					25,513.
Repairs	2,290.80	12,509.25	361.71	3,710.07	2,095.20	2,011.56	2,496.96	2,705.38					28,180.
Health Ins.	329.06	329.06	24.14	329.06	329.06	304.92	304.92	304.92					2,755.
Misc.	645.00	325.00	30.00	305.80	225.00	425.00	859.55	825.00	94.50	94.50			3,333.
Total Oper. Exp.	78,023.62	105,974.80	7,269.86	100,859.27	87,784.83	103,399.34	95,439.15	118,381.29	2,153.44	2,153.44	-0-	-0-	[illegible]
Oper. Income	16,499.86	28,838.57	(3.86)	48,407.72	33,749.77	48,175.40	27,038.45	46,446 18	(2,153.44)	(2,153.44)	19,783.50	15,040.00	[illegible]
OTHER EXPENSE													
Interest	-0-	6,424.22	-0-	7,700.40	7,103.35	7,103.35	8,798.58	8,798.58					45,[illegible].
Insurance	5,750.00	7,430.00	-0-	7,430.00	7,430.00	7,430.00	7,750.00	7,750.00	1,123.55	1,123.55			53,217.
Total Other Exp.	5,750.00	13,854.22	-0-	15,130.40	14,533.35	14,533.35	16,548.58	16,548.58	1,123.55	1,123.55	-0-	-0-	99,[illegible]
Net Oper. Inc.	10,749.86	14,984.35	(3.86)	33,277.32	19,216.42	33,642.05	10,489.87	29,897.60	(3,276.99)	(3,276.99)	19,783.50	15,040.00	180,523.

CORPORATE EXPENSES:

Officer Salary	19,000.00	
Officer Insurance	4,510.28	
Taxes	2,710.44	
Legal Fees	1,200.00	
Interest	1,633.19	
Misc.	35.26	
Total Corporate Expenses	29,406.11	29,406.
Total Corporate Income		[illegible]
Sale "Mr. Perry"	176,250.00	
Sale "Mr. Frank"	190,000.00	
Misc. Inc.	[illegible]	
	[illegible],503.35	

TOTAL CORPORATE INCOME

NO DEPRECIATION CONSIDERED

[illegible]
[illegible]
[illegible] 30, [illegible]

	Trawler Mr Frank	Trawler Father V	Trawler Mr Perry	Trawler MissConnie	Trawler Mr John	Trawler Mr [illegible]	Trawler Robert R.	Trawler Ed[illegible] L.	Trawler High Stakes	Trawler Six Kids	Totals
INCOME:	$87,803.82	$122,185.27	$7,266.00	$116,780.26	$ 05,904.08	$121,195.66	$107,924.69	$11[illegible],58[illegible].23	$5,395.50	$15,010.00	$809,079.33
EXPENSES:											
Shares	27,023.47	39,358.60	2,190.78	38,791.21	32,261.05	39,687.24	35,027.81	37,681.91			247,032.07
Adm Fees	1,800.00	1,800.00	400.00	1,800.00	1,800.00	1,800.00	1,800.00	1,800.00			13,000.00
Fuel & Oil	18,408.66	20,263.64	1,402.85	17,886.04	20,464.45	17,835.94	16,624.04	19,375.28			132,465.5[illegible]
Ice	2,620.20	2,224.20	159.00	2,204.70	2,360.70	2,656.75	3,035.70	2,492.40			17,753.6[illegible]
Net Repairs	1,261.50	1,099.00	159.00	966.75	1,057.50	1,266.00	434.50	483.00			6,747.2[illegible]
Marine Supplies	14,263.77	14,483.36	1,970.06	8,021.87	6,825.57	13,904.59	21,490.85	21,090.06			102,055.1[illegible]
Groceries	3,671.96	3,059.45	352.32	1,778.34	4,554.21	2,408.07	2,426.57	3,029.44			21,280.3[illegible]
Repairs	2,095.34	3,159.62	361.71	1,894.35	2,040.60	2,011.56	2,496.96	2,705.33			16,765.5[illegible]
Health Ins.	213.18	218.18	24.14	218.18	218.18	194.04	194.04	194.04			1,478.9[illegible]
Misc.	545.00	225.00	50.00	205.80	125.00	325.00	769.33	425.00			2,670.3[illegible]
Total Operating Exp.	$71,[illegible]	$ 85,911.0[illegible]	$7,269.86	$ 73,767.24	$ 71,707.23	$ 82,08[illegible]	$ 84,3[illegible]	$ 84,27[illegible].31	-0-	$ -0-	$561,249.[illegible]
Operating Income	$ 15,[illegible].74	$ 3[illegible],274.[illegible]	(3.86)	$ 43,013.02	$ 34,196.82	$ 39,[illegible]	$ 23,[illegible]	$ 35,[illegible]	$5,395.50	$15,0[illegible]	$247,83[illegible]
OTHER EXPENSES:											
Interest		6,972.[illegible]		6,509.24	5,335.03	5,33[illegible].03	6,8[illegible].33	6,[illegible].38			35,812.[illegible]
Insurance	3,330.00	7,430.00		7,420.00	7,430.00	7,430.[illegible]	7,[illegible]	7,[illegible]			50,970.[illegible]
Total Other Expense	$ 3,330.00	$ 14,[illegible]	-0-	$ 13,9[illegible]	$ 12,765.03	$ [illegible]	$ 1[illegible]	$ 1[illegible]	-0-	$ -0-	$ 86,782.[illegible]
Net Operating Income	$1[illegible].74	$ 23,871.[illegible]	(3.86)	$ 29,073.78	$ 21,430.79	$ 2[illegible]	$ [illegible]	$ 20,[illegible]	$5,395.50	$1[illegible]	$161,047.[illegible]

No [illegible]

CORPORATE EXPENSES:		
Officer Salary	$13,500.00	
Officer Insurance	1,549.86	
Taxes	2,150.99	
Legal Fees	1,200.00	
Interest	1,319.06	
Misc.	35.26	
Total Corporate Expenses	$19,755.17	
Total Corporate Income		$ 19,755.1[illegible]
		$141,292.[illegible]
OTHER INCOME:		
Interest	9,333.47	
Sale of [illegible]	[illegible]	
	[illegible]	
[illegible]		[illegible]
		[illegible]

OPERATING STATEMENT
FEBRUARY 28, 1978

	Trawler McFrank	Trawler [illegible]	Trawler M.Chip	Trawler [illegible]	Trawler M.Connie	Trawler [illegible]	Trawler M.John	Trawler [illegible]	Trawler M.Stakes	Trawler St.Kids	[illegible]
INCOME:	$127,546.75	$135,340.50	-0-	$136,089.40	$130,679.13	$13,519.05	$134,484.96	$ 96,873.85	$ 8,992.50	$45,120.00	$828,[illegible]
EXPENSES:											
Shares	40,239.47	43,876.04		43,040.30	42,913.69	4,103.97	43,367.37	30,011.48			247,552.32
Adm. Fees	2,400.00	2,400.00	200.00	2,400.00	2,400.00	600.00	2,200.00	2,200.00			14,800.00
Fuel & Oil	25,163.12	23,644.83	1,350.00	22,252.35	25,722.57	4,174.00	27,680.38	17,294.32			147,281.5
Ice	2,503.10	2,514.20	150.00	2,838.30	2,467.95	287.50	2,985.50	2,[illegible]			16,330.3
Net Repairs	1,870.00	1,717.00		2,020.50	1,409.50	467.00	2,048.25	1,597.50			11,129.75
Marine Supplies	7,887.73	8,024.09	810.77	11,362.93	20,638.52	1,838.64	15,253.95	15,288.45			81,105.0
Groceries	3,680.17	3,375.13		3,878.90	2,373.73	603.76	3,362.85	3,353.35			20,627.
Repairs	9,867.15	4,486.29	131.75	5,688.30	2,282.58	2,324.09	4,294.25	2,305.32			31,579.7
Health Ins.	285.61	246.10		209.12	313.82		168.98	217.26			1,[illegible]
Misc.	1,000.00	600.00		522.50	1,079.15	281.00	847.80	647.80			4,978.2
Total Oper.Expenses	94,896.35	$ 90,883.68	$ 2,642.52	$ 94,213.20	$101,601.51	$ 13,073.46	$102,209.33	$ 75,559.28	-0-	-0-	$578,[illegible]
Oper. Income	$ 32,650.40	$ 44,456.82	$(2,642.52)	$ 41,876.20	$ 29,077.62	$ 445.59	$ 32,275.63	$ 21,[illegible]	$ 8,992.50	$45,120.00	$[illegible]
OTHER EXP.:											
Interest	454.33	7,490.10	310.80	221.91	8,081.46		7,394.31	7,[illegible]	2,039.80	335.34	[illegible]
Insurance	[illegible]	7,350.00		5,650.00	8,259.00	339.00	7,765.60	[illegible]			[illegible]
Total Other Exps.	$ [illegible]	$ 14,840.10	$ 310.80	$ 5,871.91	$ 16,340.46	$ 339.00	$ 15,[illegible]	$ [illegible]	$ 2,039.80	$ 335.34	$[illegible]
Net Oper. Income	$ 26,[illegible].07	$ 29,616.72	$(2,953.32)	$ 36,004.29	$ 12,737.16	$ 106.59	$ 16,315.72	$ [illegible]	$ 6,952.70	$44,784.66	$[illegible]

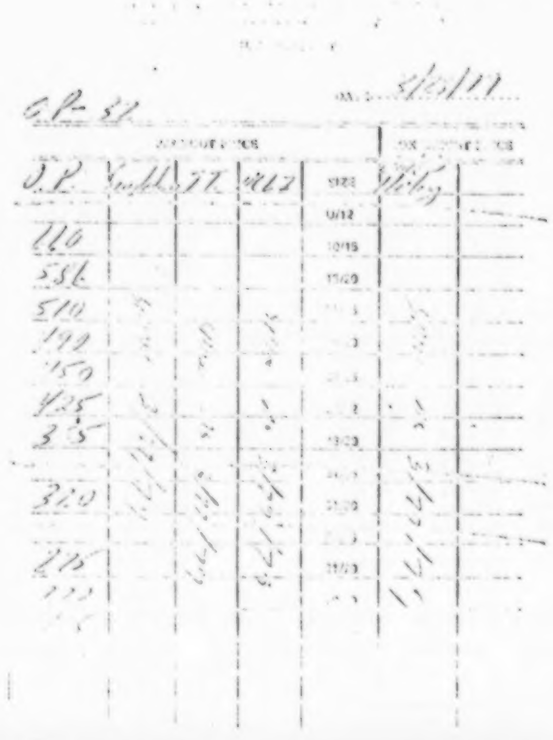
CORPORATE EXPENSE:

Officer Salary	$ 18,000.00	
Officer Insurance	4,373.28	
Taxes	4,502.96	
Legal Fees	1,395.60	
Interest	712.87	
Misc.	88.63	
Total Corporate Expense	$ 29,173.34	$ 29,173.3
NET Corporate Income		$[illegible]

ATLANTIC FISHERIES, INC.
OPERATING STATEMENT
NOVEMBER 30, 1977

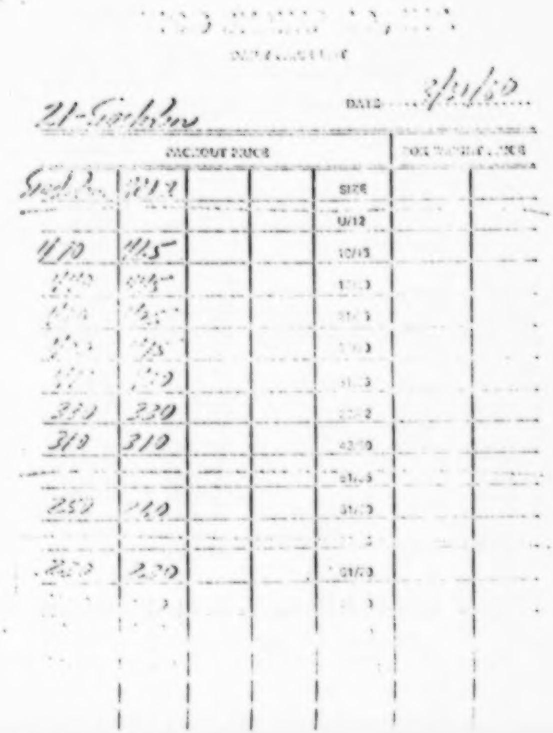
	Trawler [illegible]	Trawler [illegible]	Trawler [illegible]	Trawler [illegible]	Trawler [illegible]	Trawler [illegible]	Trawler [illegible]	Trawler [illegible]	Trawler [illegible]	Trawler [illegible]	TOTAL
INCOME:	$116564.15	$113902.75	$ -0-	$106943.20	$110303.48	$ 13519.05	$115818.66	$ 86008.85	$ 7194.00	$ 41360.00	$71161[illegible]
EXPENSES:											
Shares	37083.51	37017.45		34119.68	36263.44	4103.97	37684.64	26757.64			213030.3
Adm. Fees	1800.00	1800.00	200.00	1800.00	1800.00	600.00	1600.00	1600.00			11200.0
Fuel & Oil	20660.86	18958.82		18590.01	20941.76	2567.50	23055.58	14609.37			119383.[illegible]
Ice	2137.10	2166.20	150.00	2535.30	2128.95	287.50	2559.50	2297.80			14262.5
Net Repairs	1537.00	1304.50		1641.00	1039.00	467.00	1611.00	1162.50			8762.0
Marine Supplies	4881.66	4851.73	823.27	9353.02	15934.99	1838.64	14395.72	14364.18			66503.1
Groceries	3545.17	2746.95		2804.39	1922.85	603.76	2711.48	2887.29			17221.9
Interest	464.23	5766.02	310.80	221.91	6019.33		5633.19	5633.19	2039.60	335.34	26423.1
Repairs	6229.3[illegible]	2543.20	131.75	536.68	2231.82	2324.69	4294.25	2442.82			20734.5
[illegible]	1500.00	600.00		500.00	1029.15	281.[illegible]	747.50	647.80			4865.79
[illegible]	5550.00	7350.00		5650.00	8259.09	375.00	7765.00	7765.00			42773.66
[illegible]	[illegible]	173.63		136.70	241.[illegible]		95.56	141.84			1005.37
TOTAL EXPENSES	$ [illegible]	$ [illegible]	$ 1615.82	$ 77887.69	$ 97871.69	$ [illegible]	$ [illegible]	$ 80312.43	$ 2039.60	$ 335.34	$52[illegible]
	$ [illegible]	$ 28624.20	$ (1615.82)	$ 29055.51	$ 12431.79	$ [illegible]	$ 13[illegible]	$ 5696.42	$ 5154.40	$41024.66	$16[illegible]

OTHER EXPENSES:		
Officer Salary	$ 13500.00	
Officer Insurance	1569.86	
Taxes	3295.13	
Legal Fees	1100.00	
Interest	398.74	
Misc.	81.22	
Total Other Expenses	$ 19944.95	$ 19944.95
Total Operating Income		$14555[illegible]
OTHER INCOME:		
Sale "[illegible]"	$[illegible]	
Sale "[illegible] Chip"	[illegible]	
Total Other Income	$[illegible]	$2841[illegible]
TOTAL INCOME		$429[illegible]



O.P.- 37 DATE 3/25/77

PACKOUT PRICE					[illegible]	
O.P.	[illegible]	77	[illegible]	SIZE	[illegible]	
				U/12		
220				10/15		
556				16/20		
510	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	
190				[illegible]		
150				[illegible]		
425	[illegible]		[illegible]	[illegible]	[illegible]	
335		[illegible]		43/50		
				[illegible]		
320				[illegible]		
				[illegible]		
215				71/80		
[illegible]				[illegible]		



21-[illegible] DATE 3/21/80

PACKOUT PRICE					[illegible]	
[illegible]	[illegible]			SIZE		
				U/12		
410	415			10/15		
[illegible]	[illegible]			16/20		
[illegible]	[illegible]			21/25		
[illegible]	[illegible]			26/30		
[illegible]	[illegible]			31/35		
330	330			[illegible]		
310	310			43/50		
				51/60		
250	240			61/70		
				[illegible]		
220	220			81/90		
[illegible]	[illegible]			[illegible]		

Mr. ZIMMERMAN. To show how important the fund is to us, we want a small and a large operator to address the committee and show how their business is depressed, and the impact their businesses have on the local economy.

At this time, I would like Julius Collins to speak.

STATEMENT OF MR. COLLINS

Mr. COLLINS. Mr. Chairman and members of the committee, my name is Julius Collins. I own and operate shrimp boats working out of Brownsville, Tex.

I am immediate past president of the Texas Shrimp Association and presently chairman of the National Shrimp Congress.

Having been born in the bayous of Louisiana, I come from a family that has been in the fishing business for a long time. My grandfather was a fisherman; my father was a fisherman. I quit school at the age of 14 to become a fisherman and my son is also a fisherman.

I came here in support of H.R. 7039. The Texas gulf coast is a long way from Washington, D.C. Imagine if this hearing would be held anywhere in the Texas gulf coast, you have a small crowd compared to what you would have over here. I believe people would be hanging on the chandeliers.

At this time I would like to recognize people that are hurting that came over here with us. Will the Texas delegation please stand.

As you see, Mr. Chairman, them people spend some of their hard earned money to come here and show how bad the situation is in Texas—not only in Texas, but the whole gulf coast.

During my 30 years in the shrimp business, I have seen good years and bad years. In the past, when we had a bad year, we still could see a glitter of hope or a ray of light that would tell us that it would be short lived.

But now we do not see any glitter or ray. It is the worst that it has ever been. If we don't get any help right away, we in the shrimp business will all go broke. We must have and need financial help.

In my opinion, the reasons responsible for this are:

One, the ever-increasing and already too high price of fuel. At one time, fuel was our least expense. Today, it is our largest. Whenever over 50 percent of the gross income of a shrimp boat goes for fuel, you are in trouble.

You also have other expenses like ice, nets, cables, shackles, engine repair, rope, supplies, insurance—which isn't cheap, either—boat maintenance—paint and so forth—et cetera.

Boat payments, interest, boat haulout, and then you pay taxes, too, such as school tax, county tax, State tax, sales tax, self-employment tax, Federal unemployment tax, State unemployment tax, excise tax, personal property tax, and so forth and so on. Then if there is any left, you pay income tax.

Also, the crew has to be paid, but if nothing is left, how can they be paid? Each gulf shrimp boat has a crew of three, which means that three families depend on that boat for their livelihood.

Each boat is responsible for three other employees dockside, which means that three other families depend on the boat. You multiply 3,000 boats in Texas times six families and 18,000 families depend on the Texas gulf shrimp industry.

Most of the boats have been tied up since December, and most of these proud people have to swallow their pride and go on unemployment.

The shrimp industry today is one of the few industries that requires no formal education and is available to anyone willing to work. We in the shrimp business are the first to feel the crunch. Other fishers are sure to follow.

Before too long, all fishers will go down out of business, and this great country of ours will be at the mercy of foreign countries for our shrimp and fish, just as we are for the fuel. I need not add any more. Thank you.

[The prepared statement of Mr. Collins follows:]

STATEMENT OF JULIUS COLLINS

Mr. Chairman and Members of the Subcommittee:

My name is Julius Collins. I own and operate shrimp boats working out of Brownsville, Texas. I am immediate past president of the Texas Shrimp Association and presently chairman of the National Shrimp Congress. Having been born on the bayous of Louisiana, I come from a family that has been in the fishing business for a long time. My grandfather was a fisherman, my father was a fisherman. I quit school at the age of 14 to become a fisherman and my son is also a fisherman. I come here in support of H.R. 7039 specially in the sections which I will now mention.

Section 212 -- We need immediate financial assistance.

Section 302 -- New fees on foreign fishermen and also a reasonable tariff on shrimp and other seafoods coming into this country as imports.

Section 301 -- The phasing out of foreign fishing. We in the Gulf of Mexico have been phased out of foreign fishing grounds, and its only fair that we do the same.

Section 311 -- I fully agree that we should have watchdogs to insure that they stay within the law.

During the 30 years that I have been in the shrimp business, I have seen good years and bad years. In the past when we had a bad year, we still could see a glitter of hope or a ray of light that would tell us that it would be shortlived. But now, we do not see any glitter or ray. It is the worst it has ever been. If we don't get any help right away, we in the shrimp business will all go broke.

In my opinion, the reasons responsible for this are:

1) the ever increasing and already too high price of fuel. At one time, fuel was our least expense. Today, it is our largest. Whenever over 50% of the gross income of a

shrimp boat goes for fuel, you are in trouble. You also have other expenses like ice, nets, cables, shackles, engine repair, rope, supplies, insurance (which isn't cheap either), boat maintenance (paint and so forth), etc.Boat payments,interest, boat haulout -- and then you pay taxes too, such as school tax, county tax, state tax, sales tax, self-employment tax, federal unemployment tax, state unemployment tax, excise tax, personal property tax and so forth and so on

Also the crew has to be paid, but if nothing is left how can they be paid? Each Gulf shrimp boat has a crew of three which means that three families depend on that boat for their livelihood. Each boat is responsible for three other employees dockside, which means that three other families depend on the boat. You multiply 3,000 boats in Texas times 6 families and 18,000 families depend on the Texas Gulf shrimp industry. Most of the boats have been tied up since December, and most of these proud people have to swallow their pride and go on unemployment

2) Another factor is foreign countries competing on the U.S. market without tariff or quota on shellfish. A lot of foreign fishermen are subsidized by their governments -- Canada, Mexico, Venezuela and so forth and so on. Some are subsidized on fuel, others in other ways. It costs the U.S. shrimper about $1.50 now to produce a pound of shrimp in fuel alone. Take Mexico, they can produce one (1) pound of shrimp for about .30 in fuel so right off the bat we are about $1.20 in the hole. They can flood the market with cheaper shrimp so that is why we need a tariff that is fair to all. We are competing on the same market, but not on equal terms.

3) Another factor is having been phased out of foreign fishing grounds. This put an extra burden on the American fishing grounds. That, combined with a lot of people not related in fishing, for example, doctors, lawyers, airlines, "Injin" chiefs and so forth, buying boats and getting into the business for tax purposes. I know it is a free country and anyone can get into any business they choose, but it is still a factor.

100% increase in diesel fuel costs this past year, and 80% decrease in the price of shrimp, have put the U.S. Gulf shrimp industry out of business. It will be hard to find other jobs for the proud people in the shrimp industry. A lot of them are like I am, uneducated, and that is all we know how to do. The shrimp industry today is one of the few industries which requires no formal education and is available to anyone willing to work.

We in the shrimp business are the first to feel the crunch. Other fisheries are sure to follow. Before too long, all fisheries will be out of business and this great country of ours will be at the mercy of foreign countries for our shrimp and fish, just as we are with oil. I need not add any more. Thank you.

Mr. **Zimmerman**. At this time, Mr. Al Silchenstedt would like to talk.

STATEMENT OF MR. SILCHENSTEDT

Mr. **Silchenstedt**. I, Albert Silchenstedt, wish to thank you and the subcommittee for giving me a chance to testify on the American Fisheries Promotion Act. I wish to also thank Mr. John Breaux and Edwin Forsythe for their efforts in putting H.R. 7039 together. It is a great beginning.

I have been actively engaged in the boatbuilding and shrimp industry for 45 years. I have designed and supervised construction of over 600 steel vessels fishing worldwide. I have in the last 13 years owned and operated a shrimp fleet of 12 to 20 freezer shrimpers.

I am vice president of Rockport Yacht and Supply Co., Inc., Rockport, Tex., which is a boatbuilding operation that has designed and constructed 500 fishing boats valued on today's market at over $150 million.

RYSCO has approximately 150 employees that in this yard's existence has brought into the local economy 3,888,753 man-hours valued at today's labor market of $74 million. This industry will soon be gone.

I am also vice president of RYSCO Shipyard, Inc., Blountstown, Fla., which is a boatbuilding business that has designed and constructed 46 boats valued on today's market at over $31 million. This yard has 150 employees that in its lifespan has brought into the local economy 1 million man-hours valued at today's labor rate of $19 million.

This yard has no backlog of fishing boats and unless immediate action is taken, the yard faces closure.

I am president of Ocean Reef, Inc., Aransas Pass, Tex. Ocean Reef operates 18 shrimper freezers and has a labor force of 80 people. Our salaries in a normal year will amount to $1 million and our sales will amount to $3.5 million.

Due to the extreme cost of fuel in comparison to foreign competition, and untaxed imports composing 47 percent of our market, these people are out of work and have been since January. We are in a bankrupt position at this instant.

Mr. Chairman, we are but one example, and if something is not done immediately—and I underscore immediately—the shrimp industry I have known, which has brought employment and prosperity to the Gulf of Mexico, will be nonexistent. In a short time the shipyards will be gone, also.

Gentlemen, this is my first time to ask for me. It is very serious. The end is here for us right now. I thank you.

Mr. ZIMMERMAN. We are pleased to see that your bill addresses the question of where do we get the money for these loan programs, and have earmarked the revenue from foreign fishing fees for this purpose.

[The prepared statement of Mr. Silchenstedt follows:]

Statement of Albert B. Silchenstedt

Mr. Chairman and Members of Subcommittee:

I, Albert Silchenstedt, wish to thank you and the Subcommittee for giving me a chance to testify on the American Fisheries Promotion Act. I wish to also thank Mr. John Breaux and Edwin Forsythe for their efforts in putting H.R. 7039 together. It is a great beginning

I am forced to speak about two (2) ~~distinct industries; boat building~~ and shrimp fishing. Without a fishing ~~industry, there~~ is no boat building industry. I am part of both.

I have been actively engaged in the boat building and shrimp industry for forty-five (45) years. I have designed and supervised construction of over 600 steel vessels fishing world wide.

I have in the last thirteen (13) years owned and operated a shrimp fleet of twelve (12) to twenty (20) freezer shrimpers.

I ~~have traveled to Central America, South America and Africa as a~~ shrimp production ~~consultant~~ and ~~specialist.~~

I am Vice President of Rockport Yacht & Supply Co., Inc. (RYSCO), Rockport, Texas which is a boat building operation that has designed and constructed 500 fishing boats valued on today's market at over 150 million dollars. RYSCO has approximately 150 employees that in this yard's existence has brought into the local economy 3,888,753 manhours valued at today's labor market of $74,000,000 dollars. This industry will soon be gone.

I am also Vice President of RYSCO Shipyard, Inc., Blountstown, Florida which is a boat building business that has designed and constructed forty-six (46) boats valued on today's market at over thirty-one (31) million dollars. This yard has 150 employees that in its life span has brought into the local economy one (1) million manhours valued at today's labor rate of nineteen (19) million dollars.

This yard has no back log of fishing boats and unless immediate action is taken, the yard faces closure.

I am President of Ocean Reef, Inc., Aransas Pass, Texas. Ocean Reef operates eighteen (18) shrimper freezers and has a labor force of eighty (80) people. Our salaries in a normal year will amount to one (1) million dollars and our sales will amount to 3.5 million dollars.

Due to the extreme cost of fuel in comparison to foreign competition, our boats have been tied up since January. These people are out of work. We are bankrupt now.

Enclosed in this portfolio are letters to document the situation as I see it. I wish to make clear that the enclosed information is based on actual experience of the shrimp fisheries in the Gulf of Mexico. I realize all segments of the fisheries are in trouble but I am not close enough to the tuna, ground fish, etc. fishing to be able to say just how our problem or our cure would work with all areas. This is something the task force from each segment of fisheries could come up with.

I suggest you gentlemen elect a task force composed of three (3) to five (5) Congressmen with production business background along with an economist and an accountant. We will do likewise from the shrimp industry. Working together, this group in time could come up with a workable solution.

Immediately we need Government help in the way of:

(1) Dollars to pay outstanding payables

(2) Operating capital

(3) Close imports momentarily

(4) Stop all immigrants from coming into the shrimp industry

(5) If impossible to close imports, then we must have them pay a fuel cost differential as mentioned in my letter dated April 02, 1980

If these five (5) things are done immediately, it will allow us to see how the market will stabilize without the influx of duty free imports. While the industry is stabilizing itself and the market is stabilizing, the task force can be coming up with the long range solution to our problems.

If this is not done immediately, the shrimp industry will be non existent in a short time and the shipyards will be gone.

Gentlemen, it is this serious. The end is here!

Albert B. Silchenstedt, Vice President
ROCKPORT YACHT & SUPPLY CO., INC.
P. O. Box 662
Rockport, Texas 78382
(512) 729-5431
and
RYSCO SHIPYARD, INC.
P. O. Box 578
Blountstown, Florida 32424
(904) 674-5475

Albert B. Silchenstedt, President
OCEAN REEF, INC.
P. O. Box 1137
Aransas Pass, Texas 78336
(512) 758-7521

PHONE 512 758-7521

OCEAN REEF, Inc.

P. O. BOX 1137 224 ALLEN BOULEVARD
ARANSAS PASS, TEXAS 78336

April 02, 1980

The Honorable Don Fuqua
Rayburn House Office Building
Room 2268
Washington, D.C. 20515

Dear Don:

Enclosed is kind of a form letter which we are sending out to try to let those who could help know just how grave a situation we are in.

Let me elaborate a little more on our situation. Shrimp in 1979 averaged about $4.00 per pound to us the producer. The foreign producer received the same $4.00 per pound price. The Mexican is paying 17¢ per gallon compared to the Gulf shrimper paying 92¢ per gallon.

Mexico - 17¢ ÷ $4.00 = .0425%

Gulf - 92¢ ÷ $4.00 = .23%

The above simple mathematics stripped of all bureaucratic junk, economist's B/S and such shows that I am suffering a 600% penality on fuel cost alone. This added to the fact that 47% of the shrimp on the American market is imported with no quoto or duty, shows there is "no way" we can survive. We fishermen have always only asked for a "fair chance". As you can see, we are not getting a chance whatsoever.

There are an estimated 6000 Gulf boats in the Gulf with at least 3 men on each boat. That's 18,000 people out of work not counting those who will be out of work shortly in fishing related industries.

What can we do?

I'll see you in Altha-Blountstown area shortly.

Yours truly,
OCEAN REEF, INC.

Albert B. Silchenstedt
President

PHONE 512 758-7521

OCEAN REEF, Inc.
P. O. BOX 1137   224 ALLEN BOULEVARD
ARANSAS PASS, TEXAS 78336

April 02, 1980

TO WHOM IT MAY CONCERN:

After my trip to Washington, D.C. March 17, 1980 to attend the first United U.S. Fishing Industry meeting and from the Texas Shrimp Association meeting in Houston, Texas March 29,30, 1980, I realized that due to an oversight in our Government's planning, the Gulf shrimp industry has absolutely no way to succeed. The rate of our fall will be in direct proportion to the rising cost of fuel. Any type of aid that is offered will only be a stop gap maneuver unless we are able to get Congress to take a look at the hard facts mentioned herein.

The Gulf shrimp industry needs money immediately to be able to stay in business while Congress reacts to take necessary steps to place us back in a fair competitive market situation that we have enjoyed prior to 1974.

The history of the shrimp industry has always been based upon all of the producers having to pay about equal prices for major production expenses, fuel, fishing gear, etc. and combined with the ability of the Gulf shrimper to produce almost equalled the dollar benefit of cheap labor of our foreign competition. This being the case, our Government did not see any reason to place any restriction in quantity or in dollars on imports of shrimp. With this comparison, we did not deserve any at that time. Now the situation has reversed and we need an immediate change.

In 1974, the terrific overnight increase in fuel cost put the Gulf shrimp industry in a market crisis. With Governmental aid and some worldly enviromental aid we somehow were able to stumble back into a break-even or maybe a little profit picture.

In 1979, the fuel increase placed a disasterous effect upon the industry; 1980 is even worse. We are told "diversify, tie your boats to the dock." All sorts of ideas are set forth. However, none of these "suggestions" will put us back in business or allow us to stay in business.

In 1979, the total Gulf production was 248 million pounds; total imports amounted to 224 million pounds. This reflects 47% of our market and the greater part comes from areas that have a fuel advantage. This is fine under conditions prior to 1974 but today it is a total disaster. The following is a comparison between the Gulf shrimper and the Mexican shrimper. I am using Mexico for a comparison because it is the largest single producer. I will assume that all costs are equal or that they are workable as based on history. Since 1974, the Gulf shrimper is suffering a 550% increase in fuel cost. At this instant Mexican shrimpers are paying 17¢ per gallon for fuel and the Gulf shrimper is paying 92¢ per gallon. Based on history, we can assume that a Gulf shrimper will burn 80,000 gallons of fuel to produce 50,000 pounds of shrimp. The Mexican shrimper will burn the same gallons of fuel and produce the same poundage. The real problem involved is the dollar difference in cost to the Gulf shrimper as compared to the dollar cost of the Mexican shrimper as shown below:

Mexico - 80,000 gallons @ 17¢ = $13,600.00

Gulf - 80,000 gallons @ 92¢ = $73,600.00

ADDITIONAL COST TO GULF SHRIMPER $60,000.00

Venezuelan shrimpers have an even more lucrative deal as shown below:

Venezuela - 80,000 gallons @ 9¢ = $ 7,200.00

Gulf - 80,000 gallons @ 92¢ = $73,600.00

ADDITIONAL COST TO GULF SHRIMPER $66,400.00

It does not take a bright person to see the following dollar advantage per pound of shrimp that the Mexican and Venezuelan shrimpers enjoy on the U.S. market.

Mexico - $60,000 fuel advantage ÷ 50,000 #shrimp = $1.20

Venezuela $66,400 fuel advantage ÷ 50,000 #shrimp = $1.33

This shows that the Mexican shrimper enjoys an excessive profit, so to speak, of $1.20 per pound of shrimp. The Venezuelan shrimper enjoys $1.33 per pound excessive profit. As the U.S. fuel continues to rise, this profit advantage will become greater and greater and we will have no chance of survival.

Remember, at this instant, Mexican shrimp come to market costing the producer $1.20 less than Gulf shrimp cost. Venezuelan shrimp come to market costing $1.33 less. These figures are only taking into consideration the fuel differential. We must enact legislation now to stop the excessive profit available to the foreign shrimp producer due to the fuel cost differential.

To put it plainly, Mexico normally puts about 75,000,000 pounds of shrimp on the U.S. market. Their fuel cost advantage of $1.20 per pound will quickly prove that they can show a 75,000,000 x $1.20= $90,000,000 greater profit than an American shrimper can show. It also allows the importer $1.20 per pound leverage to reduce our market. The importer can afford to drop the market $1.20 a pound and still be equal to the Gulf shrimper.

I propose legislation that any country placing shrimp on our market pay a sum per pound equal to at least one-half the difference of our fuel cost. There is a 75¢ per gallon fuel difference between Mexico and the Gulf and an 83¢ per gallon difference between Venezuela and the Gulf. I propose that for each pound of shrimp imported from Mexico that they send along a check for 40¢ a pound. The Venezuelan will send a check for 42¢ a pound for imported shrimp. This same idea or method must be done on all shrimp coming into this Country. All dollars will revert back to the Gulf of Mexico shrimper to apply against his fuel cost. Please remember this is not unfair; this only puts us back on an even cost plateau that we have been on prior to 1974. Simple mathematics will show that we are never going to be able to continue without this type of aid. The economists continue to evade the point and request that we try other fishing, etc. Unfortunately, no matter what fishing we try, we are faced with from 700 to 900% more cost for fuel than our foreign competition. This situation is offering foreign competition an opportunity for a profit that we can never overcome. My proposal does not place a burden on the U.S. Government or the U.S. Taxpayer. It places the burden on the foreign country that can afford to pay and rightfully should pay.

Let me reiterate, if we legislate to either keep the shrimp off our market or make them pay one-half our fuel differential, we will all at least be back under the same cost structure that we have historically been working under. All these dollars will revert back to the Gulf shrimper to apply against his fuel cost. Should Mexico elect not to place their 75 million pounds of shrimp on the U.S. market, we would be placed in at least a more favorable market position because there is normally about 80 million pounds in storage.

In closing, we need immediate aid money, but for the first time we also need legislation to immediatley close the extreme fuel cost differential between the Gulf of Mexico shrimper and foreign producers.

Yours very truly,

OCEAN REEF, INC.

Albert B. Silchenstedt

Albert B. Silchenstedt
President

ABS:de

PHONE 512 758-7521

OCEAN REEF, Inc.
P. O. BOX 1137 224 ALLEN BOULEVARD
ARANSAS PASS, TEXAS 78336

April 25, 1980

The Honorable Don Fuqua
Rayburn House Office Building
Room 2268
Washington, D C 20515

Dear Don:

I realize since our phone conversation yesterday and the letter I received from Congressman John Breaux of Louisiana and Congressman Don Young of Alaska that I have not made clear the position the shrimp industry finds itself in. Please take time to read the remaining part of this letter with an open mind.

The shrimp industry is not complaining about the high cost of fuel per se.

The shrimp industry must not be classified with other fish industries any more so than a cotton farmer is classified with a peanut farmer. Each farm industry has legislation that offers benefits that are applicable to their problem and not universal concern to all farmers.

You mentioned the truckers and air lines are having fuel problems - that's true - but there is a difference. As an example, let's assume that there are 1,000,000 trucks available in the U. S. to haul products. These truckers are all paying about the same price for diesel so they are competing with one another with equal fuel cost. So in this analysis, suppose that we take 47% or 470,000 trucks of the 1,000,000 and let them operate in the U. S. using 17¢ per gallon fuel. Then make the remaining 53% or 530,000 trucks pay 90¢ per gallon for their fuel and haul in competition with th 470,000 trucks using 17¢ fuel cost. It would not take long for the 90¢ per gallon truckers to storm Washington. That is exactly where we shrimpers find ourselves.

The shrimp industry is competing with unequal fuel cost. Forty seven per cent (47%) of the available shrimp on the U. S. market are imports. They are caught by fleets that have great fuel advantages over us, but their shrimp are on our market. The largest foreign supplier of shrimp is paying 17¢ per gallon for fuel cost. I am paying 90¢ per gallon for fuel. Yet, I am ding

competing in a market where 47% of the available supply is from the cheap fuel.

Once again, we are not complaining about the high cost of fuel. We are complaining about the unequal cost of fuel that our competition enjoys. We need only to impose upon these producers not less than 1/2 the fuel cost difference on any shrimp they send to our market or we need to keep their shrimp off our market. We don't want a subsidy, we just want a fair chance to compete on an equal basis. The truckers and air lines, etc., already have an equal fuel advantage on the U. S. market. They are not competing in an unbalanced manner as we are in our own market.

In the end we must have immediate congressional aid to make the foreign producer either pay a fuel cost differential or to impose a restriction on imports. It is impossible for us to operate under the present situation. We really need your assistance.

Your truly,

OCEAN REEF, INC.

Al

Albert B. Silchenstedt
President

TEXAS
PARKS AND WILDLIFE COMMISSION

PERRY R. BASS
Chairman

3100 Fort Worth National
Bank Building
Fort Worth, Texas 76102

April 16, 1980

APR 2 1 RECD

The Honorable Don Fuqua
Rayburn House Office Building
Room 2268
Washington, D.C. 20515

Dear Congressman Fuqua:

Our mutual friend, Albert B. Silchenstedt, was nice enough to send me a copy of the letter that he wrote to you on April 2nd.

Our Texas Parks and Wildlife Department is distressed and concerned about the terrible financial condition thrust upon our shrimp industry by the escalating cost of fuel. Our shrimp industry is 96% of the seafood industry of Texas and traditionally a great contributor to the economy of our state.

In Al's letter to you he brought forth the fact that in Mexico, the 17¢ the Mexican government charges for fuel was something like 4% of the cost per pound for shrimp, whereas, in Texas our industry had to pay 92¢ for a gallon of fuel which was 23% of the cost of a pound of shrimp.

I want to bring to your attention a point that Albert, in his modesty, did not stress, which is that it takes a lot more than one gallon of fuel to catch a pound of shrimp. These last several months, the cost of fuel has been above the market value of all the shrimp caught. Our offshore fisheries where the boats trawl for seafood are converters of fossil fuels to protein. They are just as essential to our food supply as the beef producer or the wheat farmer. They deserve your attention and help.

Very truly yours,

Perry R Bass

Perry R. Bass

UPI Photo

Clements (R) greets Nguyen Van Nam

Shrimpers talk with governor about troubles

By The Associated Press

AUSTIN — Texas and Vietnamese shrimpers from the Galveston area, seeking to cool tensions at sea, said they were encouraged by their meeting with Gov. Bill Clements here Thursday.

However, the governor and the shrimpers agreed Clements has little power to intercede in the potentially explosive situation.

"I'd be lying if I said we are going back with al the solutions we hoped to come up with," said Emery Waite, a Seabrook businessman who ow a fish processing plant and fishing boats.

"I'm going to put on my bullet-proof vest," he said half-jokingly.

Shots have been fired and crosses burned as recently as last week, according to the shrimpers.

Don Reynolds, a member of the Seabrook-Kema coalition of Vietnamese and local shrimpers, said the influx of Indochinese fisherman has increased the local fleet by about 75 percent, up to a total of [illegible] boats.

Waite said about 75 percent of the native fishermen and all the Vietnamese boat-owners belong to the coalition.

It's the non-members he is worried about. Seabrook Police Chief Bill Kerber said a Ku Klux Klan-like cross burning took place under a bridge in his city last week. The shrimp season opens May 15.

"There's only so many dollars that are going to come out of the water," he said of the intensified competition.

APR 2 4 RECD

SHRIMP MARKET REPORT
APRIL, 1980

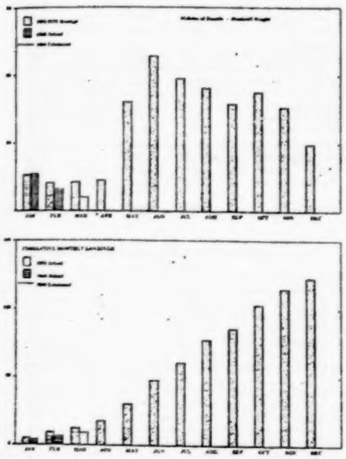
report from
LMR
living marine resources, inc.

UNITED STATES MARKET

United States Production

Tropical shrimp captured in the Gulf of Mexico and off the South Atlantic coast of the United States totaled only 3.2 million pounds* during February, 1980. This was the second lowest catch for a month of February in over a decade. Only February, 1977, at 2.6 million pounds, was lower. Florida's west coast was the principal production area, with landings of one million pounds — mostly pink shrimp.

UNITED STATES SHRIMP PRODUCTION



The cumulated total for January and February was only 8.5 million pounds, which is about two million below the average of recent years.

March production was very poor also, with an estimated catch of about two million pounds for the month. When the final numbers are tallied, March, 1980 may have the lowest production figure for any month in over 25 years. The total cumulative catch in the southern U.S. fishery during the first quarter of 1980 is estimated to have been only 10.5 million pounds. This is about 3.0 million pounds under the average of recent years (1975-1979). At an average ex-vessel price of $4.25 per pound, this represents a financial loss to the fishermen of nearly $13 million.

Tropical Shrimp Landings At Gulf and South Atlantic Ports*
(Millions of Pounds)

	January-March					
	1980	1979	1978	1977	1976	1975
	(Prel.)					
Total	10.5	14.9	15.6	9.0	13.9	13.6

The primary reason for the very low landings has been the drastic reduction in fishing effort in the Gulf. In Texas alone, an estimated 80-90 percent of the trawler fleet, or about 1,600 vessels, were tied up or inactive in late March. The limited catches by the trawlers during this seasonally low production period, along with rising fuel costs and declining shrimp prices, has made shrimping an uneconomical venture for most boats during this time.

Until ex-vessel prices rise or shrimp catches improve, little change in the situation can be expected. If the Gulf season follows the norm this year, and there is no indication it won't, conditions cannot be expected to improve until about mid-May or early June. When the vessels do return to the grounds, the initial fishing success should be good, following the period of reduced effort.

Only two areas in the northeast Pacific reported landings of northern shrimp in February, 1980 — they were Kodiak, Alaska, with about 224,000 pounds (heads-on) and Dutch Harbor, Alaska with 129,000 pounds. The other fisheries are closed or inactive.

Alaska, Washington, Oregon and California
Shrimp Information, 1978-1979
(Landings in Millions of Pounds, Heads-On)

Area	Season	Landings		Ex-Vessel Prices	
		1978	1979	1978	1979
Alaska	Year round, regulated by government, area, weather and other fisheries.	75.3	50.5	$.165	$.225
Washington	Year round, regulated by government and weather.	12.4	11.8	.20-.26	.45
Oregon	April 1 through Oct. 15	57.0	28.3	.26-.28	.32-.46
California	Flexible under current regulations, usually April 16 to Oct. 15-30.	13.2	5.0	.26-.28	.32-.46

United States Imports

The imports of foreign shrimp during January, 1980 totaled 16,915,000 pounds (product weight), which is slightly under the average of recent years (1975-1979), but 3.9 million pounds higher than January, 1979 receipts.

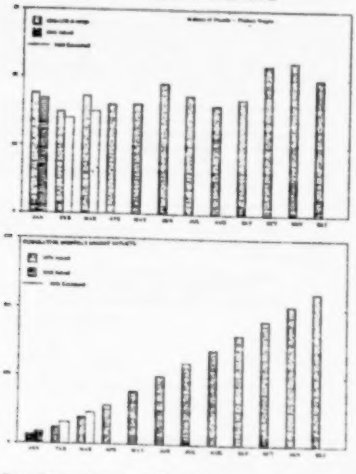
United States Shrimp Imports
(Millions of Pounds — Product Weight)

	January				
	1980	1979	1978	1977	1976
	(Prel.)				
Shell-on	10.0	7.8	8.0	10.9	11.7
Peeled (Raw)	6.5	5.0	7.9	7.8	7.3
Other*	.4	.2	.3	.2	.1
Total	16.9	13.0	16.2	18.9	19.1

*Cooked, canned, and breaded

Imports arrived at a slower pace during February and March. Estimates of the monthly totals are 14.0 and 15.0 million pounds, respectively. The quarterly total may reach 45.0 to 46.0 million pounds, which would be about 5.0 million higher than the first quarter of 1979, but about 5.0 million pounds below average (1975-1979) for the quarter.

UNITED STATES SHRIMP IMPORTS



From January through mid-March imports of the shell-on, headless shrimp were 37 percent under 25 count, 31 percent 26-50 count, 12 percent 51 or greater count, and 20 percent unclassified as to size. Imports of peeled raw shrimp were 27 percent under 25 count, 21 percent 26-50 count, and the remainder, or 54 percent, were mostly small shrimp and pieces.

Receipts from Mexico started the seasonal decline in early March as expected, and should continue to decline each month until September.

Exporters in general are expected to shy away from the United States market over the near term, while prices and demand remain soft.

United States Cold Storage Holdings

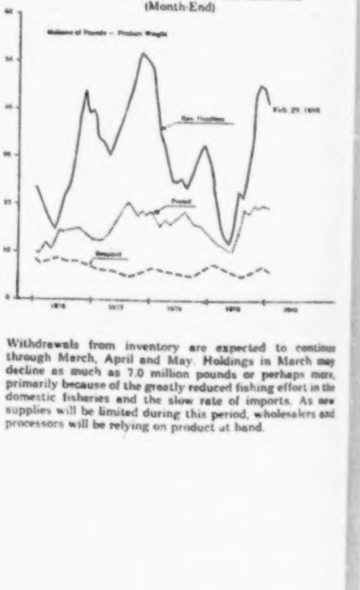
The national holdings of frozen shrimp in cold storage houses on January 31, 1980 were originally reported by the government to be 78.9 million pounds (product weight), but this figure has been revised to 82.7 million pounds. This revision was expected and pointed out in the March report.

Frozen shrimp inventories as of February 29, 1980 were about 79.0 million pounds, of which 41.3 million were raw headless and 19.3 million peeled shrimp. A total of 3.7 million pounds were withdrawn from storage during the month, and of this, 3.0 million pounds were the raw headless variety. The heaviest withdrawals were from freezers in the south central states, and along the Pacific coast.

United States Cold Storage Holdings
(Millions of Pounds — Product Weight)

	2/29/80	1/31/80	2/28/79	2/28/78
	(Prel.)	(Revised)		
Type				
Raw Headless	41.3	44.3	23.9	40.2
Peeled	19.3	19.9	12.3	16.2
Breaded	6.1	6.4	7.8	5.9
Unclassified	12.3	12.1	7.9	15.2
Total	79.0	82.7	51.4	77.5
Region				
New England	7.0	7.8	4.8	6.6
Middle Atlantic	14.7	15.0	7.1	12.7
South Atlantic	14.6	14.2	13.9	12.7
North Central	3.6	3.5	2.5	4.3
South Central	14.1	15.8	10.5	19.0
Pacific Coast	25.0	26.4	12.6	22.2
Total	79.0	82.7	51.4	77.5

UNITED STATES COLD STORAGE HOLDINGS
(Month-End)



Withdrawals from inventory are expected to continue through March, April and May. Holdings in March may decline as much as 7.0 million pounds or perhaps more, primarily because of the greatly reduced fishing effort in the domestic fisheries and the slow rate of imports. As new supplies will be limited during this period, wholesalers and processors will be relying on product at hand.

United States Demand

The apparent usage of shrimp products during February, 1980 was about 21.0 million pounds, bringing the total usage to date (January-February) up to 48.0 million pounds. This is a decline of 2.5 million pounds from the apparent consumption in the corresponding period of 1979 and 12.5 million pounds below 1978 for the same two months.

United States Apparent Consumption
(Millions of Pounds — Product Weight)

	January-February			
	1980 (Prel.)	1979	1978	1977
Domestic Landings*	8.5	10.6	10.8	5.4
Imports	31.0	26.5	32.9	35.6
Cold Storage Adjustments	8.5	13.4	16.8	14.4
Total	48.0	50.5	60.5	55.4

*Gulf and South Atlantic States, Heads-off

The takeaway during March, 1980 will probably show a minor improvement of about 24.0 million pounds. This would raise the quarterly usage to about 72.0 million pounds, which would be nearly 5.0 million pounds less than the first quarter of 1979, and about 9.0 million under the average of recent years (1975-1979).

The usage of shrimp is not expected to improve significantly until late May or June, 1980, when the new crop of shrimp begins to show in the domestic catches.

United States Prices

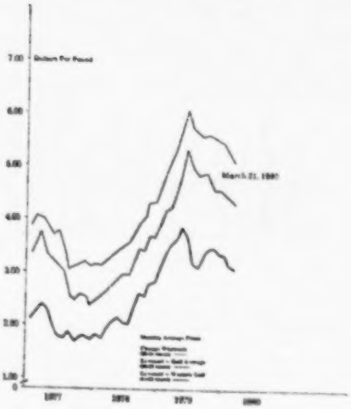
Shrimp prices, which started a general declining trend in June/July, 1979 after reaching all-time record highs, continued to bounce downward during March, 1980. In Chicago, the wholesale prices quoted for the 26-30 count brown shrimp from the Gulf area started the month at the $5.10-$5.15 level. By the end of March, wholesalers were asking from $4.80 to $4.95 per pound. The average price for the month was $5.03, or down $.21 from the February price.

The ex-vessel price for this species and count in the Gulf area declined $.13 a pound to average out at $4.30 for March. However, prices fluctuated throughout the month, and actually ended the period higher in some areas. In the western Gulf region the average price early in the month was $4.47, but dropped to $4.21 before rising to $4.51 during the last week. Prices for this count shrimp in the eastern Gulf area, where mostly pink shrimp were being landed, were fairly stable at $4.15 to $4.19.

The smaller shrimp, which showed an increasing trend during the last quarter of 1979, softened steadily through most of February, and showed some firmness in early March before dropping off late in the month. The 41-50 count, for example, averaged $3.09 per pound during March, a decline of $.06 from February, but was bringing about $3.34 per pound early in the month.

In late March, the prices quoted for Alaskan frozen shrimp on the Seattle market increased for most packs. IQF shrimp rose from $4.00-$4.25 per pound to $4.40, vacuum tins (5 lb.) from $3.85-$4.25 to $3.85-$4.35; and 5 lb. blocks from $3.90-$4.25 to $3.90-$4.35 per pound.

UNITED STATES SHRIMP PRICES



Inquiries into the market situation brings back remarks such as: Difficult to determine; confused; and drifting aimlessly. There apparently is still a surplus of large-sized shrimp in some areas, and buyers may receive quotes which vary from $.10 to $.20 per pound. Large variations in quotes tend to generate a wait-and-see attitude, as tomorrow the prices may be lower. Large institutional buyers are apparently waiting it out, while small users are buying on a week-to-week basis.

United States Exports

The United States exports small quantities of domestically produced frozen shrimp, and occasionally re-exports small amounts of foreign shrimp. Most of the domestic shrimp exports are from the northwest fisheries, and the principal destinations are in western Europe, Japan, New Zealand and Australia.

United States Shrimp Exports
(Millions of Pounds — Product Weight)

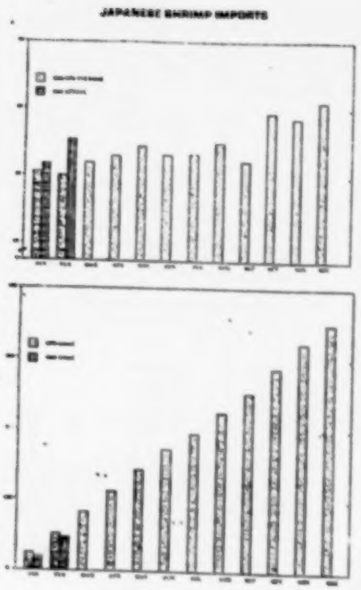
	1979	1978	1977	1976	1975
Total (Domestic)	28.9	34.8	26.1	23.3	27.7

JAPANESE MARKET

Japanese Imports

The shrimp buyers in Japan received about 25.4 million pounds (product weight) of product from foreign producers during February, 1980. The combined total for the first two months was 47.2 million pounds, a decline of 4.5 million from the corresponding months of 1979.

JAPANESE SHRIMP IMPORTS



Japanese Shrimp Imports
(Millions of Pounds — Product Weight)

	January-February			
	1980	1979	1978	1977
Indonesia	12.1	10.2	9.0	7.8
India	9.7	13.1	6.2	8.3
China, Mainland	4.1	2.9	0.5	0.5
Thailand	3.8	3.6	2.4	2.9
Australia	2.2	1.3	1.1	0.7
Mexico	1.5	3.3	2.6	2.4
Taiwan	2.0	1.4	1.1	0.6
Other	11.8	16.2	12.5	12.1
Total	47.2	52.0	37.4	35.3

The primary sources of supplies have been the major producing nations of Southeast Asia.

Japanese Prices

There has been some spot weaknesses in the shrimp prices in Japan due to the post-holiday dip in demand and the international exchange rate for the yen. The domestic market appears to be balking at paying the current high prices and wholesale buyers are having difficulty getting the primary suppliers to come down on the asking prices.

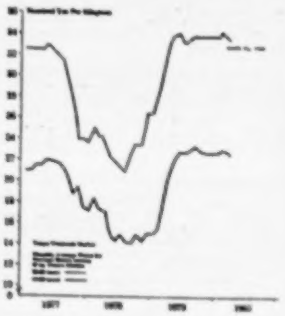
The slight dip in the prices of Mexican brown shrimp is apparently a reflection of some offerings by private firms in California because direct shipping, government companies are holding firm. The price quoted for Mexican brown 26-30 counts on the Tokyo Wholesale Market was 3,350 yen/kilogram on March 21, down 50 yen/kilogram from late February prices. The 41-50 count dropped 100 yen/kilogram from February's quote of 2,300.

The market over the next few months appears fragile as major traders and buyers are forced to tighten their money belts. A reduction in inventories of large count shrimp and a stabilization of the yen may be needed before the market smooths out.

Comparable spot prices on March 21, 1980 for 26-30 count shrimp in Tokyo were as follows:

Country	Species	Yen/Kilogram
Indonesia	Banana	3,300
India	White	2,450
South America	Pink	3,250

JAPANESE SHRIMP PRICES



New Shrimp Trawl Design

A new shrimp trawl design, which offers increased catches and potential fuel savings, is currently gaining acceptance by South Atlantic and Gulf states shrimpers, according to the University of Georgia designer. The new trawl is a modified tongue trawl or "three winger," and is the latest step in the evolution of trawls utilizing three towing wires. Smaller doors provide equal spread while running the vessel at a reduced speed and thereby saving fuel.

Further information is available from the University of Georgia Marine Extension Service, P.O. Box Z, Brunswick, Georgia 31520.

report from LMR
living marine resources, inc.

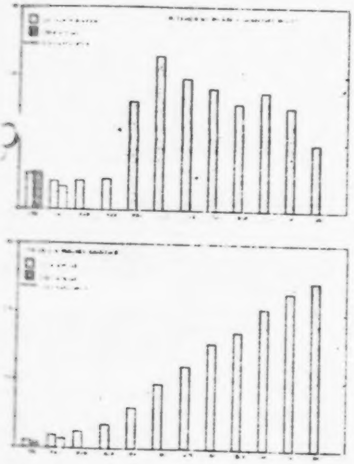
SHRIMP MARKET REPORT
MARCH, 1980

UNITED STATES MARKET

United States Production

The first four months of the calendar year are the off-season for the United States tropical shrimp fishery. During January, 1980 the total landings of shrimp at the Gulf and South Atlantic ports were 5.3 million pounds.* Although 50 percent lower than December, 1979 landings, they were about average for January. Most of the production was Texas brown shrimp, Louisiana whites and Florida pinks.

UNITED STATES TROPICAL SHRIMP PRODUCTION
(Gulf and South Atlantic States)



Production during February was low, with estimated total landings of about 3.4 million pounds. The average (1975-1979) for February is 4.0 million pounds. The cumulative total for the first two months was about 8.7 million pounds.

Tropical Shrimp Landings at Gulf and South Atlantic Ports
(Millions of Pounds)

	January-February				
	1980 (Prel.)	1979	1978	1977	1976
Total	8.7	10.6	10.8	5.4	9.7

March production probably will not exceed 4.0 million pounds and, therefore, the estimated total for the first quarter would be about 12.7 million pounds which is slightly below average.

The northern shrimp fisheries on the west coast and in Alaska are closed to fishing or relatively inactive at this time. The New England fishery was expected to open in mid-February following several years of no fishing.

UNITED STATES SHRIMP IMPORTS

(Millions of Pounds — Product Weight)

Country	January-December 1979	1978	1977	1976	1975
Mexico	71.9	72.5	76.3	80.4	75.1
Costa Rica	2.2	1.1	1.3	2.1	2.3
Nicaragua	5.4	5.6	7.4	6.5	6.2
El Salvador	6.3	5.0	5.4	5.6	6.8
Honduras	3.1	3.5	4.7	3.9	3.6
Guatemala	3.6	4.2	3.8	2.7	3.6
Panama	12.2	9.2	10.1	11.6	9.8
Colombia	4.1	4.2	5.7	6.3	5.7
Ecuador	13.7	10.9	8.6	9.4	8.1
Brazil	9.7	3.9	3.5	2.0	1.4
Venezuela	2.3	1.3	2.8	5.8	4.9
Guyana	3.7	3.4	4.6	4.2	5.4
Surinam	1.4	2.0	3.7	3.8	3.1
French Guiana	3.6	1.7	1.6	1.4	1.6
Americas Subtotal	143.2	128.5	139.5	145.7	137.6
India	30.8	39.2	41.1	41.6	29.6
Indonesia	6.5	3.8	4.4	4.6	1.6
Hong Kong	5.3	3.6	3.9	5.1	2.2
Bangladesh	2.7	3.5	3.4	3.8	2.5
Thailand	10.6	3.9	4.5	3.3	2.6
Taiwan	7.9	3.2	3.3	5.1	5.6
Asia Subtotal	62.8	57.2	60.6	63.5	44.1
Australia	1.1	.2	.8	.8	.9
Other	17.4	12.4	27.2	19.8	18.7
Total	224.5	198.3	228.1	229.8	201.3

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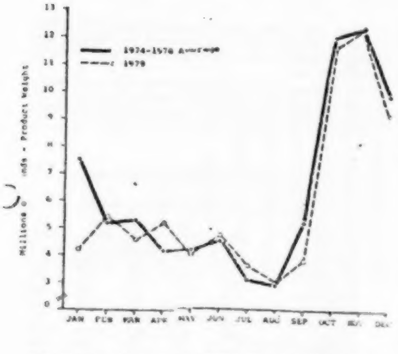
*Headsoff unless otherwise stated.

United States Imports

Foreign-caught shrimp entering the United States during December, 1979 totaled 17.6 million pounds (product weight), of which 12.2 million was shell-on headless, 4.4 million peeled raw and the remainder peeled cooked, breaded and/or canned. The total poundage of shrimp passing through customs during 1979 was 224.5 million pounds including 123.4 million raw headless, 86.1 million raw peeled, 10.2 million cooked peeled, 4.3 million canned and 0.5 million breaded shrimp.

Imports from Mexico, the primary supplier to the United States, were down slightly in 1979 compared to 1978. The monthly shipments, except for January, followed the average seasonal trend throughout the year.

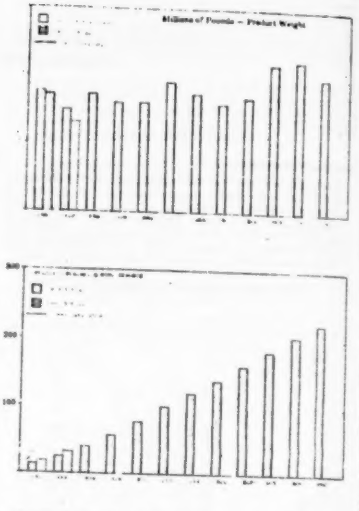
UNITED STATES IMPORTS OF MEXICAN SHRIMP



Shipments of shrimp into the United States from Mexico continued at a steady pace during January and February, 1980 and may total 8 to 9 million pounds for the period. The index of Mexican imports into the United States through Arizona and California customs districts for the season (September 1 through February 29) shows 1979/1980 to be 4.3 million pounds ahead of 1978/1979 for the same period.

Total shrimp imports from all areas during January, 1980 are estimated to have been about 17.0 million pounds and for February, 13.0 million pounds. January receipts were slightly below average while February is expected to be about 2.0 million pounds under the average.

UNITED STATES SHRIMP IMPORTS



United States Cold Storage Holdings

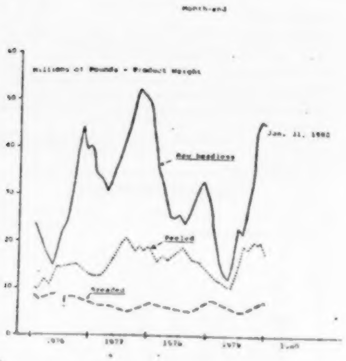
The cold storage holdings of shrimp in selected public freezers were reported to be 78.9 million pounds on January 31, 1980. However, this figure appears to be lower than expected and a revised figure should be forthcoming soon. Other calculations indicate the holdings may be as high as 82.0 to 84.0 million pounds.

United States Cold Storage Holdings
(Millions of Pounds — Product Weight)

	1/31/80 (Prel.)	12/31/79 (Revised)	1/31/79	1/31/78
Type				
Raw Headless	45.0	45.8	28.8	48.9
Peeled	19.0	20.0	13.6	18.9
Breaded	7.0	7.7	7.6	7.8
Unclassified	12.0	14.0	9.1	17.3
Total	83.0	87.5	59.1	92.4
Region				
New England	7.0	7.2	4.5	7.3
Middle Atlantic	14.8	15.0	7.2	12.3
South Atlantic	15.3	15.8	15.1	15.4
North Central	3.5	3.4	2.7	5.0
South Central	16.4	18.9	12.1	21.6
Pacific Coast	26.0	27.2	17.5	30.8
Total	83.0	87.5	59.1	92.4

The month-end holdings for February are expected to be 5 or 6 million pounds less than the January figure. Unless business improves substantially, inventories at the end of March may be around the 70.0 million pound figure.

UNITED STATES COLD STORAGE HOLDINGS



United States Demand

The apparent demand for shrimp products during January was slightly below average (1975-1979 average 28 million pounds) for the month of January.

United States Apparent Consumption
(Millions of Pounds — Product Weight)

	January			
	1980 (Prel.)	1979	1978	1977
Domestic Landings*	5.3	5.9	6.6	2.8
Imports	17.0	13.0	16.2	18.9
Cold Storage Adjustments	4.5	5.7	1.9	7.1
Total	26.8	24.6	24.7	28.8

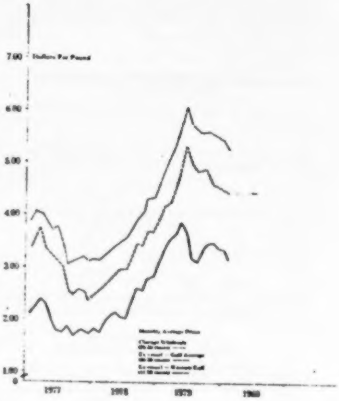
*Gulf and South Atlantic States, Heads-off

Indications are that the February take-away was below average by 15 to 20 percent. As demand was sluggish through late January and into February, prices fell to encourage purchasing. With prices softening and money rates rising, some sell off may be expected as some speculators try to cover their rising mortgage payments.

United States Prices

rimp prices at both the wholesale and ex-vessel levels continued their soft trend through February as supplies were relatively good and demand was moderate to light.

UNITED STATES SHRIMP PRICES



Wholesale prices in Chicago, which had remained steady during January, weakened during the first three weeks of February and then leveled off. The prices quoted for the 26/30 count Gulf brown headless declined from an average of $5.43 per pound at the end of January to about $5.15 by the end of February. The average price for February was $5.24.

The ex-vessel price of 26/30 shrimp in the Gulf area showed a similar softening during the first weeks of February, but stiffened over the later ten days. The average Gulf price in January, 1980 was $4.50 per pound. By mid-February, it had fallen to $4.32 but recovered to $4.36 late in the month. The average for February was about $4.43. Prices were highest in the western Gulf, $4.52 at month-end, and lowest in the eastern ports ($4.16) where pink shrimp landings are seasonally high.

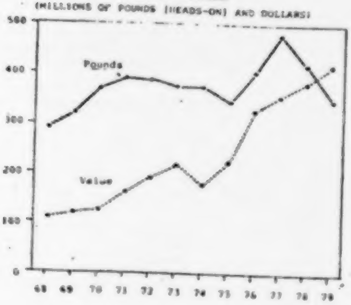
Smaller shrimp, such as the 41/50 count size, have also followed the price trend of the large shrimp in most areas. The average western Gulf price dipped from January's $3.36 per pound to $2.83 in mid-February, only to rebound to $3.19 by month-end. The average for February was about $3.15. Some individual ports have recorded little change in prices of small shrimp through the entire month, but have undergone noticeable drops, as much as $.50 per pound, in prices of large shrimp (10/15's to 21/25's).

Quotes on frozen Alaskan shrimp in the Seattle wholesale market have shown no change since December 1, 1979. IQF shrimp prices are $4.00 to $4.25 per pound, whereas the 5-pound vacuum tins are $3.65 to $4.25 per pound.

United States Annual Production and Value

The annual landings of shrimp in 1979 fell back to the production levels of the early 1970's, whereas the overall ex-vessel values climbed from a little over $100 million in 1969 r 1970 to $423 million in 1979 and thereby averaged over J per pound.

UNITED STATES ANNUAL PRODUCTION AND EX-VESSEL VALUE



JAPANESE MARKET

Japanese Imports

During the year 1979, Japan imported a record 349.8 million pounds (product weight) of shrimp. The increase was 32.4 million pounds over the previous high year (1978) in which 317.4 million pounds passed through customs.

JAPANESE SHRIMP IMPORTS

(Millions of Pounds — Product Weight)

	December		January-December		January
	1979	1978	1979	1978	1980
Indonesia	5.2	6.3	65.3	62.5	6.0
India	6.9	6.1	85.4	69.6	3.0
China, Mainland	1.8	2.7	26.6	20.2	1.4
Thailand	2.0	2.2	20.5	18.5	1.8
Australia	2.0	1.6	24.2	16.6	1.3
Hong Kong	1.1	1.3	9.6	8.8	.5
Mexico	.7	2.2	10.4	17.3	.8
Taiwan	1.5	2.4	13.2	12.3	1.2
Malaysia	.5	.6	6.9	6.3	.6
South Korea	.4	.2	4.9	5.2	.2
Other	5.5	8.4	82.8	80.1	5.0
Total	27.6	33.9	349.8	317.4	21.8

The principal supplier was India with 85.4 million pounds, owed by Indonesia with 65.3 million pounds. China was rd with 26.6 million and Australia moved into fourth place with 24.2 million pounds.

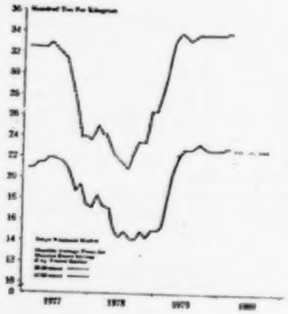
January, 1980 imports declined to 21.8 million pounds from December, 1979 receipts of 27.6 million. Indonesia was the leading provider with 6.0 million pounds, followed by India at 3.0 million. When the February imports are totalled, they are expected to be below 20.0 million pounds. The major trading firms in Japan have become more selective and cautious on future buying until present inventories are reduced.

Japanese Prices

Shrimp prices, as quoted on the Tokyo wholesale fish market, continue on the trend set early last year. In early May, 1979, Mexican brown shrimp in 2-kilogram frozen blocks were quoted at 3,400 yen per kilogram for the 26/30 count size. On February 22, 1980 the same quote was given. In dollars per pound, however, the price has dropped from $7.12 to $6.50; this apparently being a reflection of the value of the yen relative to other world currencies.

The 41/50 count Mexican brown shrimp was reported to be 2,300 yen per kilogram on February, 22, up 25 yen from the late January price.

JAPANESE SHRIMP PRICES



Comparable spot prices on February 22, 1980 for 26/30 count shrimp in Tokyo were as follows:

Country	Species	Yen/Kilogram
Guiana	Pink	3,600
Indonesia	Banana	3,300
India	White	2,800
Australia	Tiger	3,400

Australia

Australia shrimp exports to Japan during 1979 increased sharply in both volume and value when compared to 1978. Volume was higher by 7.6 million pound or 46 percent and value was up nearly 40 percent. Exports to the United States, which were only 200,000 pounds in 1978, increased to 1.1 million pounds in 1979.

report from LMR
living marine resources, inc.

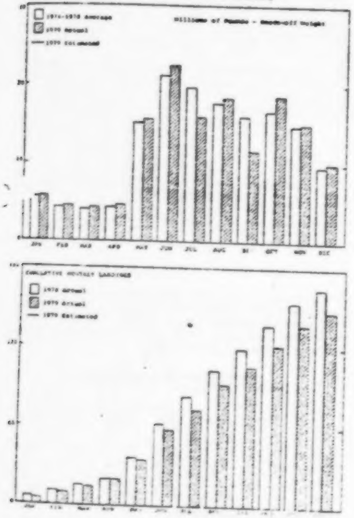
SHRIMP MARKET REPORT
FEBRUARY, 1980

UNITED STATES MARKET

United States Production

Tropical shrimp landings at ports in the Gulf of Mexico and South Atlantic states totalled about 10.0 million pounds* during December, 1979. Unloadings were 5.3 million pounds below November's recordings and slightly lower than receipts during December, 1978.

UNITED STATES TROPICAL SHRIMP PRODUCTION
(Gulf and South Atlantic States)



The total production of tropical shrimp for the calendar year 1979 will be about 147 million pounds, which is about 20 million pounds or 14 percent below landings in 1978. However, 1979 production was only slightly below the annual rage (150.2 million pounds) of recent years (1976/1974).

January production is usually low throughout the Gulf and South Atlantic coastal regions, but January 1980 appears to be very low compared to 1978 and 1979. Most of the catches are being made on brown shrimp off South Texas, and pink shrimp off West Florida, while activity in other areas is minor.

Tropical Shrimp Landings at Gulf and South Atlantic Ports
(Millions of Pounds)

	January				
	1980 (Prel.)	1979	1978	1977	1976
Total	3.5	5.9	6.6	2.8	5.4

Landings of northern shrimp in Alaska were very light during December, 1979, as most fisheries were inactive.

Alaska Shrimp Landings
(Millions of Pounds — Heads-on)

	January-December				
Area	1979 (Prel.)	1978	1977	1976	1975
Kodiak	14.5	22.8	31.8	51.5	46.8
Chignik	23.7	23.0	27.8	29.0	25.9
So. Peninsula	3.1	11.8	46.5	37.6	19.6
Other Areas	8.7	15.7	10.8	10.9	6.7
Total	50.0	73.3	116.9	129.0	99.0

Catches of northern shrimp along the Pacific coastal areas are incidental at this time of year, as most fisheries are closed or weather conditions too harsh for small boat trawling. The total catch for 1979, from northern California to the Aleutian Islands, was about 94.5 million pounds heads-on (53.5 million headless), compared to 155.7 million pounds heads-on in 1978 and 193.0 in 1977. Production was down in all fisheries in 1979, and catches in 1980 are probably not likely to improve.

Northern Shrimp Landings
(Millions of Pounds — Heads-on)

	January-December				
	1979 (Prel.)	1978 (Prel.)	1977	1976	1975
Alaska	50.0	73.3	116.9	129.0	99.0
Oregon	27.5	57.0	48.5	25.4	23.9
Washington	12.0	12.2	11.6	9.2	10.2
California	5.0	13.2	15.7	3.4	5.0
Total	94.5	155.7	193.0	167.0	138.1

Unlike tropical shrimp, which grow and mature in several months time, cold water shrimp may take several years to reach maturity. If certain year classes are heavily fished, or if detrimental ocean conditions, increases in predators or diseases prevail for an extended period, the stocks may decline or fail to maintain themselves. Thus, poor stock conditions will be reflected in the catches.

The total United States production of tropical and northern shrimp during 1979 is estimated to have been about 200 million pounds (headless). This was nearly 90 million pounds below the record production year of 1977, and 57 million less than 1978. As in 1978, most of the decline in 1979 was in the northern shrimp fisheries.

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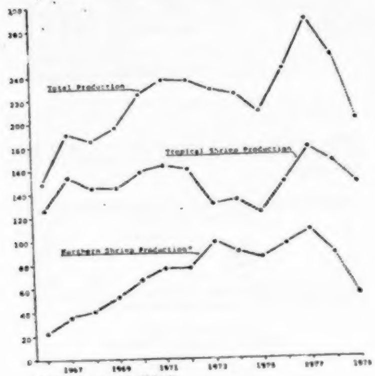
*Heads-off unless otherwise stated.

UNITED STATES DOMESTIC SHRIMP LANDINGS
(Millions of Pounds — Headless Weight)



*Converted to heads-off basis

United States Imports

Imports from selected countries for the period January through October, 1979, with comparative recent years, are listed below.

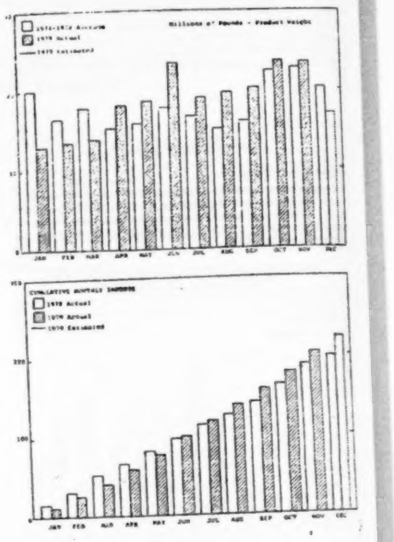
United States Shrimp Imports
(Millions of Pounds — Product Weight)

Country	1979 (Prel.)	1978	1977	1976	1975
	January-October				
Mexico	50.3	53.0	55.0	52.4	55.9
Nicaragua	5.0	4.9	6.3	5.4	5.0
Panama	10.2	7.9	8.5	9.7	8.5
Ecuador	11.4	9.5	7.5	7.6	7.1
Colombia	3.5	3.7	5.1	5.4	5.0
Venezuela	2.1	1.2	2.6	5.1	4.3
Brazil	8.8	3.4	3.4	1.7	1.2
India	29.9	37.1	35.4	34.7	24.2
Taiwan	6.5	2.4	2.3	3.8	3.7
Thailand	8.2	3.1	3.7	2.6	2.4
Malaysia	1.5	.9	2.0	1.9	.4
Indonesia	4.9	3.4	4.0	3.8	1.3
Australia	.2	.8	.8	.7	.8
Other	40.9	32.1	49.7	41.7	39.5
Total	183.4	163.4	186.3	176.5	159.4

Receipts from Mexico, Nicaragua and Panama are similar to previous years, whereas products from Ecuador, Brazil, Taiwan and Thailand are up noticeably from earlier totals.

Shrimp imports into the United States during November, 1979 totalled 23.5 million pounds (product weight), which is equivalent to October, 1979 receipts, but four million pounds higher than November, 1978. Shell-on headless shrimp made up nearly 67 percent of the imports, and peeled shrimp 30 percent.

UNITED STATES SHRIMP IMPORTS



The cumulated total for the period January through November, 1979 was 206.9 million pounds, up 25.1 million from the corresponding period of 1978. The ratio of shell-on headless shrimp to peeled shrimp has remained about the same for the past several years.

United States Shrimp Imports
(Millions of Pounds — Product Weight)

	1979 (Prel.)	1978	1977	1976	1975
	January-November				
Shell-on	111.2	92.0	126.8	114.3	105.6
Peeled (Raw)	91.4	86.9	94.9	87.3	74.1
Other*	4.3	2.9	2.7	3.1	2.1
Total	206.9	181.8	224.4	204.7	181.8

*Cooked, canned, and breaded

Data on receipts of foreign caught shrimp into the United States during December, 1979 have not been published; however, preliminary tallies indicate the total for the month will be about 17.0 million pounds. This total would be about two million pounds higher than December, 1978, but slightly below average for December in recent years. January 1980 imports are arriving at a moderate pace, and probably will not exceed 15.0 million pounds for the month. January, 1979 receipts were reported to be 13.0 million pounds.

United States Cold Storage Holdings

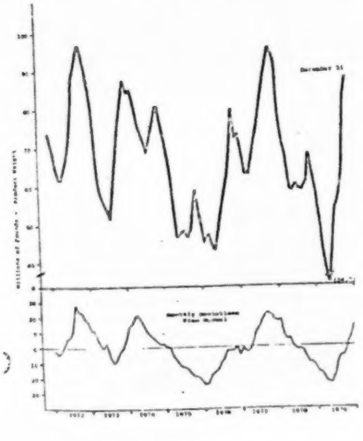
The year closed with shrimp inventories totalling at least 87.5 million pounds (product weight). Imports were not as high as expected, and stocks increased by only 4.2 million pounds. Minor gains in holdings were reported for all types of shrimp and in all regions. Some adjustment in inventory figures can be expected as year-end numbers are finalized.

United States Cold Storage Holdings
(Millions of Pounds — Product Weight)

	12/31/79 (Prel.)	11/30/79 (Revised)	12/31/78	12/31/77
Type				
Raw Headless	45.8	44.2	32.8	50.3
Peeled	20.0	19.5	14.1	18.4
Breaded	7.7	7.0	6.8	7.1
Unclassified	14.0	12.6	11.1	18.5
Total	87.5	83.3	64.8	94.2
Region				
New England	7.5	7.7	4.6	9.8
Middle Atlantic	15.1	14.1	7.8	12.7
South Atlantic	16.3	16.0	14.7	11.4
North Central	4.4	2.8	2.9	4.5
South Central	18.9	18.1	15.2	25.0
Pacific Coast	26.3	24.6	19.6	30.8
Total	87.5	83.3	64.8	94.2

During the next four or five months institutional users, processors and wholesalers are expected to draw from storage to satisfy immediate demands, because the United States market is entering the seasonally low period for new supplies, when imports and domestic landings are down.

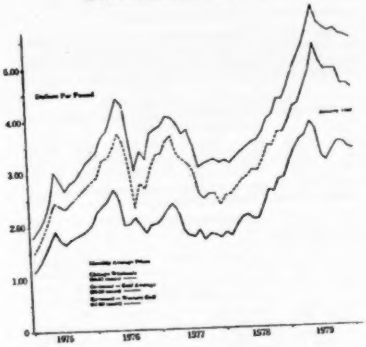
UNITED STATES COLD STORAGE HOLDINGS
(Month-End Totals)



United States Prices

Through the last quarter of 1979, shrimp prices at the ex-vessel and wholesale levels drifted downward from the record highs of mid-1979. The average prices for January, 1980 were down also; however, in mid-month they began to steady.

UNITED STATES SHRIMP PRICES



The average Chicago wholesale price for 26/30 count Gulf brown shrimp during December, 1979 was $5.50 per pound, and in January, 1980 it had dropped to about $5.45 per pound. Early in January the quotes were between $5.40 and $5.45 per pound, spread to $5.35 and $5.50 by mid-month, before leveling off at $5.45 and $5.50 during the later weeks.

The mean ex-vessel price for the 26/30 count browns at Gulf ports during December was $4.57. In January it fell to about $4.41 before climbing to $4.56. The average for January, 1980 is expected to be about $4.50.

Prices paid to fishermen for the small shrimp (larger counts) very widely throughout the Gulf area. For example, in early January the prices of 41/50's in the eastern Gulf ranged between $2.67 and $3.00 per pound, to average out at $2.80. In the western Gulf area, 41/50's averaged $3.35 per pound. The overall mean Gulf price was about $2.86 per pound. The variance in prices across the Gulf is a reflection of the species being landed, the amount unloaded, local demand and the method used to count the shrimp.

Shrimp fishermen have had to contend with rapidly rising operating costs brought on in particular by the escalating fuel and oil prices. Many will find it uneconomical to fish at current ex-vessel price offerings, and will require increases to operate, or tie up. Therefore a slow-down in production is expected during the next few months, during the normal seasonally low production period.

United States Demand

The apparent consumption, based on landings, imports and adjustments in inventories, is estimated to have been 346.3 million pounds of shrimp during 1979. This is a decline of 46.8 million pounds from 1978's annual usage, and 43.9 million lower than 1977.

United States Apparent Consumption
(Millions of Pounds — Product Weight)

	January-December			
	1979 (Prel.)	1978	1977	1976
Domestic Landings*	147.2	167.3	177.5	148.8
Imports	223.8	198.3	238.0	229.8
Cold Storage Adjustments	- 22.7	+ 29.5	- 13.3	- 17.0
Total	348.3	395.1	392.2	361.6

*Gulf and South Atlantic States, Heads-off

During the year 1979, except for the months of April, May and August, usage declined each month (as compared to comparable months of 1978) from a rate of 33 million pounds per month to about 29 million pounds per month.

United States Shrimp Usage, 1979
Apparent Take-Away During Previous 12 Months
(in Millions of Pounds)

Jan.	393.2	Apr.	383.5	July	365.2	Oct.	356.0
Feb.	383.3	May	380.6	Aug.	366.9	Nov.	355.2
Mar.	378.2	June	377.2	Sept.	363.0	Dec.	348.3

Through the first quarter of 1980, monthly usage is expected to decline to about 23 million pounds.

JAPANESE MARKET

Japanese Imports

Shrimp imports into Japan continue to exceed all expectations and most previous monthly records. The total reported imports in November, 1979 were 33.8 million pounds, which is the record high for a month of November. Only three other months; December, 1976, December, 1978 and October, 1979 recorded higher imports during a 30-day period. Japan imported shrimp from 37 countries during November and India was the major contributor with 9.7 million pounds. Indonesia was second with 4.8 million.

Japanese Shrimp Imports
(Millions of Pounds — Product Weight)

Country	November		January-November		
	1979	1978	1979	1978	1977
Indonesia	4.8	4.7	60.0	56.2	51.3
India	9.7	6.6	78.5	63.5	50.1
China	2.2	4.3	24.9	17.5	7.0
Thailand	1.6	1.8	18.6	16.3	15.2
Australia	2.6	1.5	22.1	15.1	15.5
Hong Kong	1.0	1.1	8.5	5.8	12.3
Mexico	1.0	2.2	9.7	15.1	7.7
Taiwan	2.4	2.7	11.8	9.9	6.2
Malaysia	0.5	0.6	6.4	5.7	7.1
South Korea	0.4	0.4	4.5	5.2	5.1
Other	7.6	7.3	77.3	70.1	95.6
Total	33.8	33.2	322.2	283.4	275.1

The cumulated total imports for the January through November period reached 322.2 million pounds, with a total of 61 countries contributing. Japan received shrimp from such unlikely producers as Afghanistan, Mongolia and Western Samoa. The year 1979 will be the all-time record for shrimp imports and may exceed 350 million pounds when annual receipts are tallied.

Following the exceptionally heavy receipts during October, November and December, 1979 to meet the holiday demands, imports will decline during the first quarter of 1980.

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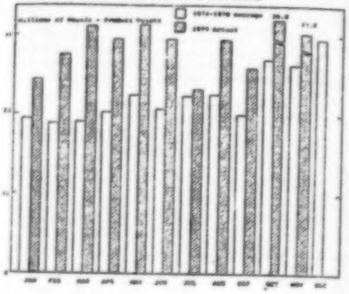
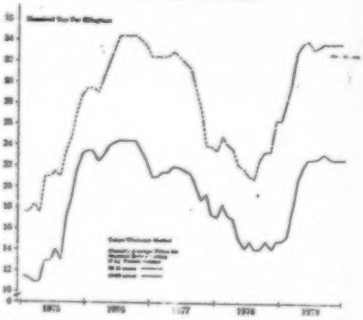
JAPANESE SHRIMP IMPORTS



Japanese Prices

Mexican brown shrimp, as reported on the Tokyo Wholesale Market, have undergone little change in price since early September, 1979. The 26/30 count which was quoted at 3,375 yen per kilogram on September 7 was quoted at the same price on January 18, 1980. The 41/50 count declined 100 yen per kilogram during this period, going from 2,375 to 2,275.

JAPANESE SHRIMP PRICES



During December and early January, prices of Indian white shrimp drifted downward. The 26/30 count size was listed at 2,825 yen per kilogram in early December, 2,725 by mid-month and 2,660 in mid-January. The 41/50 count followed the trend, going from 1,725 yen per kilogram down to 1,650.

Comparable spot prices on January 18, 1980 for 26/30 count shrimp from other areas were as follows:

Thailand, white - 2,500 yen per kilogram
Indonesia, banana - 3,400 yen per kilogram
India, white - 2,625 yen per kilogram
Pakistan, white - 2,600 yen per kilogram

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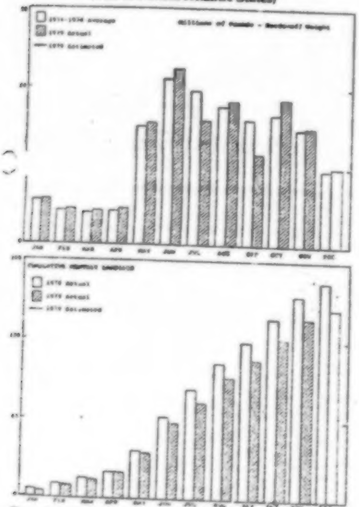
SHRIMP MARKET REPORT
JANUARY, 1980

UNITED STATES MARKET

United States Production

The production of tropical shrimp along the Gulf of Mexico and South Atlantic coastal states totaled about 16.0 million pounds* during November, 1979. Except for October, 1979, monthly landings this year have been running behind the corresponding months of 1978 and November was no exception, as landings were lower by about 1.8 million pounds. The total production for the period January through November, 1979 was about 136.9 million pounds which is 18.0 million pounds lower than the similar period of 1978 and about 3.0 million less than the average (1974-1978) of recent years.

UNITED STATES TROPICAL SHRIMP PRODUCTION
(Gulf and South Atlantic States)



December shrimp production averages about 5.0 million pounds less than November's landings. With an estimated 10.0 million pounds for December, 1979, the total domestic production of tropical shrimp will be 146.7 million pounds in 1979. The total for 1978 was 165.5 million and the average annual for 1974 through 1978 was 149.3 million. Although 1979 fell behind 1978 by about 18.8 million pounds, it was about average for the southern United States. However, the number of trawlers fishing these waters increased over recent years. Many boats have been excluded from shrimping in Mexico's Gulf coast waters and, therefore, remained on the United States grounds.

Tropical Shrimp Landings at Gulf and Southern Atlantic Ports
(Millions of Pounds)

	January-December					
	1979 (Prel)	1978	1977	1976	1975	1974
Total	146.7	165.5	177.6	148.8	123.1	133.9

During the month of December, the brown shrimp landed in Texas were approximately the same sizes as those landed in December, 1978, but quite a bit larger than December, 1977 landings.

Texas Brown Shrimp Fishery
Sizes Landed During December

	<21 Count	21-40 Count	>40 Count
1977	22%	70%	8%
1978	32%	58%	10%
1979	34%	55%	11%

The Texas and Louisiana white shrimp landings, since mid-August, are considerably lower than the similar periods of 1977 and 1978. Catches are down about 40 percent from these two previous years but are about equal to the corresponding periods of 1972 through 1976. The sizes of the white shrimp unloaded in December, 1979 were slightly larger than those brought in during December, 1978.

Louisiana/Texas White Shrimp Fishery
Sizes Landed During December

	<21 Count	21-40 Count	>40 Count
1977	10%	24%	66%
1978	5%	18%	77%
1979	8%	22%	70%

The number of pounds of shrimp which went to canning plants in Louisiana and Mississippi during 1979 was far below the cannery receipts of 1978 and 1977. Approximately 19.5 million pounds of shrimp (heads-on) were purchased by the canners in 1979 compared to 31.9 million in 1978 and 45.2 million pounds in 1977. A total of 13 canning plants produced about 900,000 cases (24 cans, 4-¼ ounces) of shrimp in 1979 compared to 1.5 million cases (14 plants) in 1978 and 2.1 million in 1977, when 15 plants were operating.

The landings of northern shrimp from the Pacific Northwest fisheries were seasonally low with only Kodiak and Dutch Harbor reporting small quantities being unloaded. A recent survey of the Kodiak grounds, by industry and government investigators, indicated the resource is still in poor condition. In addition to the limited numbers of adults, the decline in the stocks is being accelerated by a disease or parasite which is killing about 50 percent of the eggs being carried by the female shrimp in some areas. This may have a long-term effect upon the resource.

All other shrimp fisheries, from the Bering Sea to northern California, are relatively inactive at this time of year.

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*Heads-off unless otherwise stated.

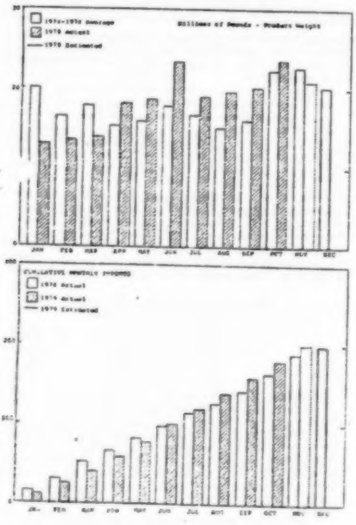
Alaska Shrimp Landings
(Millions Pounds — Heads-on)

	January-November				
	1979	1978	1977	1976	1975
	(Prel.)				
Kodiak	14.0	22.4	31.1	50.5	43.3
Chignik	23.7	23.0	27.6	28.7	25.2
South Peninsula	3.1	11.8	45.9	36.3	18.1
Other Areas	6.7	14.9	9.9	10.1	5.5
Total	47.5	72.1	114.5	125.6	92.1

United States Imports

The imports of shrimp into the United States during October, 1979 totaled 23.7 million pounds (product weight), of which 15.7 million was shell-on, frozen headless; 7.6 million was peeled and the remainder was breaded and/or canned. The monthly total was about average for recent Octobers. The total cumulated imports reached 183.4 million pounds for the January through October period.

UNITED STATES SHRIMP IMPORTS



The 95.5 million pounds of frozen, raw headless, was higher than the corresponding period of 1978 by 17.2 million pounds, but about normal compared to recent years.

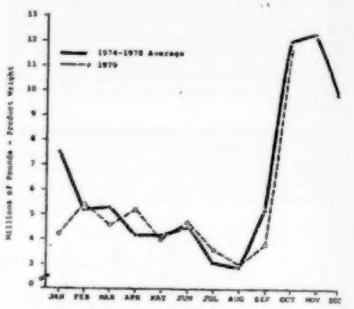
The principal exporter of shrimp to the United States during October, 1979 was Mexico with 11.6 million pounds crossing the border. Receipts from India dropped sharply to only 0.9 million pounds, compared to 3.5 million in September, 1979.

United States Shrimp Imports
(Million of Pounds — Product Weight)

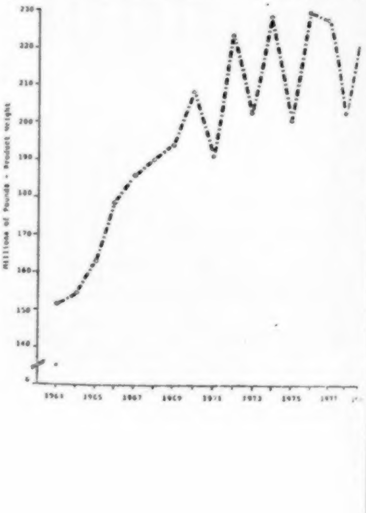
	January-October				
	1979	1978	1977	1976	1975
	(Prel.)				
Shell-on	95.5	78.3	100.6	96.2	91.4
Peeled (Raw)	84.3	82.3	82.5	77.9	66.0
Other*	3.6	2.8	3.2	2.4	2.0
Total	183.4	163.4	186.3	176.5	159.4

*Cooked, canned, and breaded

UNITED STATES IMPORTS OF MEXICAN SHRIMP



UNITED STATES IMPORTS OF SHRIMP, 1963-1978



Latin America provided the bulk of the imports as southeast Asian products have been delayed at ports of entry by the Food and Drug Administration.

Shrimp receipts from foreign producers are expected to total ween 38 and 40 million pounds for the months of ember and December, 1979, combined. The 1979 annual receipts should total somewhere between 220 and 225 million pounds which would be about ten percent higher than the imports of 1978 but about average of the several years (1972-1977) previous.

United States Cold Storage Holdings

As anticipated, the holdings of frozen shrimp increased during November as imports continued to be heavy. November inventories, as reported by the federal agency which monitors public cold storage facilities across the country, increased by about 10.5 million pounds over October's report. Most of the increase was registered in the raw headless category in Pacific coast cold stores. The South Atlantic and South Central States showed slight gains.

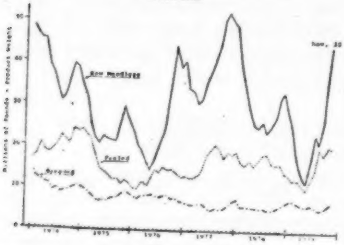
United States Cold Storage Holdings
(Millions of Pounds - Product Weight)

Type	11/30/79 (Prel.)	10/31/79 (Revised)	11/30/78	11/30/77
Raw Headless	44.2	34.1	32.6	52.2
Peeled	19.7	20.2	16.1	19.0
Breaded	7.0	6.6	6.2	6.3
Unclassified	12.6	12.1	13.3	18.4
Total	83.5	73.0	68.2	95.9

Since May 31, 1979, the lowest reported inventories of frozen shrimp in about a decade, frozen shrimp holdings have eased a total of 48.8 million pounds. Raw headless have en 32.3 million pounds and peeled shrimp inventories have nearly doubled — from 10.0 million to 19.7 million pounds.

Inventories are expected to continue building during December and probably reach 90.0 million pounds by year's end. As imports drop off and domestic landings are at their seasonal low during the first several months of 1980, inventories will be drawn down.

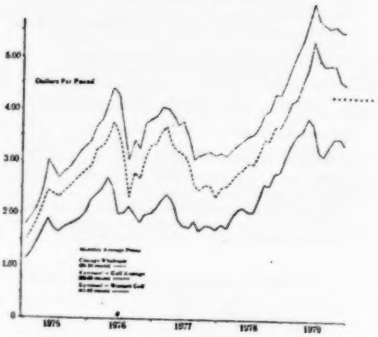
UNITED STATES COLD STORAGE HOLDINGS
Month-end



United States Prices

During the month of December, shrimp prices at the wholesale and ex-vessel levels continued unsteady but in general, weakened for most size categories.

UNITED STATES SHRIMP PRICES



In Chicago, the wholesale dealers were asking from $5.45 to $5.60 per pound for the 26-30 count Gulf brown headless shrimp. On the average this represented about $.05 per pound less than in November, 1979. However, these prices are still higher than in January, 1979 by $.96 per pound.

Average Chicago Wholesale Prices, 1979
By Month for Frozen Gulf Brown Shrimp

	Count Size-U.S. Dollars Per Pound			
	15-20	21-25	26-30	41-50
January	$5.60	$4.75	$4.55	$3.56
February	5.89	5.01	4.86	3.77
March	6.07	5.23	5.09	3.96
April	6.38	5.51	5.33	4.05
May	6.89	6.00	5.69	4.18
June	7.10	6.49	6.06	4.19
July	6.61	6.37	5.74	3.77
August	6.33	6.31	5.65	3.77
September	6.37	6.28	5.57	3.61
October	6.24	6.12	5.62	3.96
November	5.97	5.85	5.54	4.03
December	5.77	5.69	5.51	3.86

The ex-vessel prices for the 26/30 count shrimp at the Gulf ports averaged about $4.55 per pound which is $.03 per pound less than the November average price. Prices to the fishermen in the eastern Gulf ports averaged about $4.20 per pound for the 26/30 count size during December while the central and western ports averaged about $4.73 per pound.

The margin between the Chicago wholesale price, for the Gulf 26/30 count shrimp, and the ex-vessel price was about $1.00 per pound in December, 1979 compared to about $.62 in December, 1978.

The ex-vessel price for the 41/50 count brown shrimp at the western Gulf landings averaged about $3.35 per pound in December; down $.14 per pound from November's mean, but $.52 higher than December, 1978.

As the industry moves into its usual low supply season from January through April each year, prices will level off and begin a general upward trend. The currently high inventory situation will tend to keep prices soft over the near term but as stocks are reduced, prices will rise once again.

United States Demand

The apparent demand for shrimp was similar to other recent Novembers when about 30 million pounds were consumed. The total apparent usage for the 11-month period of January through November was about 326.1 million pounds.

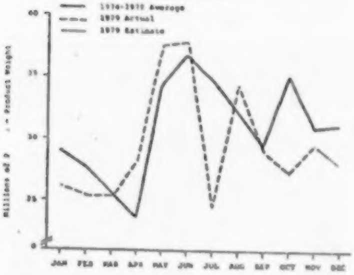
United States Apparent Consumption
(Millions of Pounds — Product Weight)

	January-November			
	1979 (Prel.)	1978	1977	1976
Domestic Landings*	136.9	164.7	165.5	142.6
Imports	204.4	182.9	206.6	204.2
Cold Storage Adjustments	-15.2	+36.1	-15.0	-24.1
Total	326.1	383.7	357.1	322.7

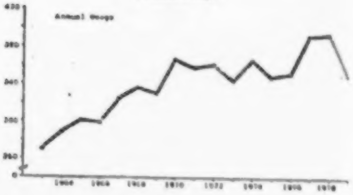
*Gulf and South Atlantic States, Heads-off

This represents a 10 to 12 percent decline from the similar periods of 1977 and 1978 which is not unreasonable considering the record high prices for shrimp during 1979.

UNITED STATES APPARENT CONSUMPTION
Monthly Usage



UNITED STATES APPARENT CONSUMPTION
Annual Usage



The total usage for the year 1979 is expected to reach about 350 million pounds, which is only slightly below the average annual usage since 1970.

JAPANESE MARKET

Japanese Imports

Due to the delay in mail services over the holiday season, the data on Japan's November imports of shrimp were not received by press time. This information will be included in the next Shrimp Market Report. Imports of shrimp during November, 1978 totaled 33.2 million pounds (product weight).

Inventories were reported to be high during November and early December, however, demand is apparently good at the retail level. Consumption is expected to be high during December and January, the traditional holiday season. Large pre-boiled heads-on shrimp are selling well in most markets.

As in the United States, some shrimp imports from India and other southeast Asian countries are being rejected due to reported poor quality, mixed sizes and broken meats. Apparently because of the high world demand for shrimp, some processors are letting quality standards slide in hopes of maintaining supplies for customers.

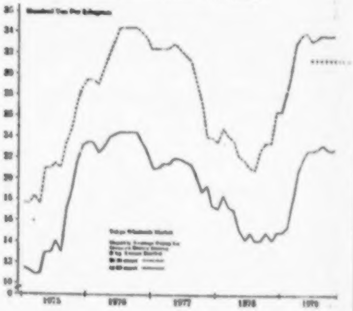
Japanese Prices

In the Tokyo Wholesale Fish Market, Mexican brown shrimp of the 26/30 count sizes were selling for about 3,400 yen per kilogram during mid-December, 1979, which is about the same as reported for mid-November, 1979. The 41/50 count price was 2,300 yen per kilogram; no significant change during the past month.

Comparable spot prices for 26/30 count shrimp from other areas were as follows:

Thailand white — 2,900 yen per kilogram
Indonesia banana — 3,400 yen per kilogram
Guiana pink — 3,600 yen per kilogram
India white — 2,760 yen per kilogram

JAPANESE SHRIMP PRICES



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Mr. **Zimmerman**. Sydney Herndon is in strong support of this position, and he will speak at this time.

STATEMENT OF MR. HERNDON

Mr. **Herndon**. Mr. Chairman, and other members of the subcommittee, my name is Sydney Herndon, and I am chairman of the board and chief executive officer of Herndon Marine Products, Inc. of Aransas Pass, Tex.

I have been in the seafood business for 44 years. My company owns 32 shrimp trawlers at the present time. We manage another 30 trawlers and service an additional 40 to 50 independently owned trawlers in our packing plant, ice and fuel, marine supply, engine repair and shipyard divisions.

I strongly support your recognition of the foreign competition question. Your bill speaks to one aspect of foreign competition—direct fishing activities—and we support the additional fees imposed on foreign fishing vessels in the U.S. waters. It is important that something be done about this.

It is equally important, however, that something be done about the other foreign competition which we confront; namely, direct subsidies from their Governments and indirect subsidies from our government.

I would like to quote U.S. Department of Commerce publications concerning facts that distress me.

An NMFS publication dated April 4, 1980: "Shrimp landings were not only a record low but the poorest monthly volume since detailed records were started in 1956. For the first 3 months of 1980, landings were off 71 percent."

From the same publication, dated May 7, 1980: "Mexican fishermen reported record high catch in 1979."

These facts show what happened when they can fish and we cannot.

Today, 90 percent of our boats remain tied to the dock; we lose less money that way. The cost of fuel is prohibitive for us to fish. Call it what you will, Mexico is currently paying 17 cents per gallon for diesel fuel. We asked our Government for assistance to combat subsidized foreign competition, and we got no positive response.

In the years past, this same U.S. Government has voted for and assisted in efforts to provide support for these same Mexican fishermen. In the years past, the Inter-American Development Bank has approved projects for Mexican fisheries.

The previously quoted U.S. Department of Commerce publications also show that the Inter-American Development Bank has approved the largest fisheries development project in its history for Brazil. The Inter-American Development Bank announced on December 6, 1979 that it had approved a $31.2 million fishery development project for Brazil.

These are two of our strongest foreign competitors. I might add, two countries which recently kicked our U.S. fleet out of their fishing areas.

Why is it we seem to work so hard to support our competitors against the best interests of American businessmen? In my judgment, we need to generate revenues which will be directed toward stabilizing the U.S. fishing industry.

I believe this can be best accomplished by a 5-percent duty on all seafood products imported into the United States. These moneys should be earmarked and directed into programs for the benefit of the U.S. domestic fishing industry.

Let me reemphasize. Mexicans pay 17 cents per gallon for diesel fuel. We are currently paying 95 cents per gallon and projected to go higher. In 1979, Mexico sent $294.6 million of shrimp into the U.S. duty free. In 1980, the United States cannot send one shrimp boat into Mexican waters to fish for shrimp.

Mexico is going fishing for U.S. shrimp consumers. We are going bankrupt. We need help. Why is it always fashionable for our Government to help foreigners and not help Americans?

This American thinks it is time to reverse that policy.

Thank you.

[The prepared statement of Mr. Herndon follows:]

STATEMENT OF SYDNEY E. HERNDON

My name is Sydney E. Herndon and I am Chairman of the Board and Chief Executive Officer of Herndon Marine Products, Inc.

I have been in the seafood business for forty-four years. My company owns thirty-two (32) shrimp trawlers at the present time. We manage another thirty (30) trawlers and service an additional 40 to 50 independently owned trawlers ~~in~~ our Packing Plant, Ice and Fuel, Marine Supply, Engine Repair and Shipyard Divisions.

This entire operation along with all of the similar ones on the Gulf Coast are about to go bankrupt unless some immediate help is obtained from our government.

Most of the problem is caused by the drastic increase in the cost of diesel fuel as compared to our competition. Mexico subsidizes their fleets as does Venezuela, Canada and many other countries. Our Mexico vessel competition pays 17¢ per gallon for their diesel fuel and sells their products in the United States duty free. Since fuel cost is around 25% of our production cost, you can see that this kind of competition can surely drive us out of business. It is my understanding that our Venezuelan competition pays 9¢ per gallon for fuel and both Mexico and Venezuela export most of their shrimp to our country to sell on the same market that we do.

A recent news report quoted a representative of National Marine Fisheries Service as saying that 90% of the shrimp trawlers from Key West, Florida to Brownsville, Texas are tied to the dock. I believe that figure is conservative since most of my trawlers have not left the dock since late December of 1979.

The economic impact on Aransas Pass, Texas will be terrific since shrimping is our primary industry. A large number of other businesses depend on a successful shrimping industry to keep them going.

Inasmuch as the importation of seafood is responsbile for about ten percent of the deficit in our balance of payment and getting worse, would it not be a good idea to put a five percent tariff on all seafood imported into the United States and return this money to the industry to help defray our high fuel costs. Something along this line must be done soon if this great industry is to survive.

I am now quoting from a publication by the United States Department of Commerce - NOAA - NMFS dated 4/4/80 -- Shrimp landings were not only a record low but poorest monthly volume since detailed records were started in 1956. For the first three months of 1980 - landings off 71%.

Same publication - 5/7/80 -- Mexican fishermen reported record high catch in 1979.

Same publication - 5/7/80 -- Latin-American fishermen caught 9.8 million metric tons of fish and shellfish in 1979 - a 13.5% increase over 1978.

Same publication - 4/30/80 -- The Inter-American Development Bank (IDB) has approved the largest fishery development project in its history. The IDB announced on December 6, 1979 that it had approved a $31.2 million fishery development project for Brazil.

It appears to me that our government bureaus are sending money and experts to foreign countries to help them develop their resources -- I read also of trade missions to these countries to teach them more about how to catch and export their resources to our country. Their legislators are helping them -- our bureaus are helping them -- to put us out of business. The balance of payment can only get worse. We have too many Neros playing too many fiddles while we are burning. It is high time that this government did something to help Americans before it is too late.

Mr. **Zimmerman**. In conclusion, we have one other speaker, and that will be John Jackson.

STATEMENT OF MR. JACKSON

Mr. **Jackson**. Gentlemen, my name is John P. Jackson. I am a third-generation member of a successful shrimp business family located in Rockport, Tex.

I want to thank the committee for the opportunity to publicly voice my support to H.R. 7039, the American Fisheries Promotion Act.

The bill has some very positive, well-conceived provisions that will help alleviate some of the problems that we in the producing industry are currently facing. I wholeheartedly endorse the bill, but I think it does fall short of being the all-encompassing legislation we desperately need.

My primary concern is that there is nothing in the bill which is immediate. The U.S. fishing industry must secure an infusion of capital until long-range remedial programs can be devised and implemented which will bring the industry back to a profitmaking status.

The impending crisis you have heard about today is reaching even the most prudent managers and successful businessmen.

My family has been no stranger to these disasters in the past. Over the years we have suffered three major fires, deaths in the family business, and devastating hurricanes, each of which could have been a fatal blow to the business.

But in each case we were able to save the boats which gave us a nucleus on which to rebuild. The one difference is that now we are going to lose that nucleus, and it seems we don't have any control over that destiny.

Some uninformed outsider, when responding to our complaints of high fuel costs, might argue that any industry dependent on fuel is suffering the same plight, and what makes our cause so unique.

The answer to that is really very simple. Unlike most of those other industries, we are not able to pass on these increased costs. We have absolutely no direct control over the price of our product.

In an attempt to stay alive in recent months our firm has been conducting experiments in alternative fishing. We have converted shrimp vessels for long-lining for swordfish, a conversion which required an additional $30,000 capital investments per boat.

We have had extremely limited success primarily because of inexperienced crews and lack of processing facilities in a very regionalized market. We have also invested conversion funds in fishing for red snapper with snapper reels, and in trolling and gigging for tuna.

The attractiveness of these efforts is primarily because there already exist a ready market, although it is not in the south, and the species can be caught with fishing methods that use a fraction of the fuel shrimping does.

All of these species have a relative abundance in the gulf and very well may be our answer to making the ends meet in our suffering shrimp industry, especially in our off season.

H.R. 7039 addresses the search for alternative fishing. However, we are in need for immediate capital infusion to assist us in over-coming the current crisis until the provisions of the legislation and our self-imposed experimentation can be fully implemented.

Gentlemen, fishermen are a proud lot. We subscribe to a philosophy of survival of the fittest, but none will survive under the conditions we currently face.

The condition I speak of is the one thing we all have in common, the high cost of fuel. We are currently paying 95 cents for fuel. The U.S. Government representatives have projected that fuel will reach $1.50 plus during 1980.

We don't believe it is possible for the U.S. fishing fleets to endure the $1.50 fuel and maintain a profitable operation. We in the gulf are forced to tie up our boats during this, our off season, with fuel at 95 cents. I am certain that we cannot operate with $1.50 fuel at any time.

At this time I would like to pass out something for the members of the committee to see.

When I say to you our need is immediate, I do not exaggerate. At this very moment, over 90 percent of the gulf shrimp fleet from Brownsville to Key West is tied up simply because it is a losing proposition to go shrimping.

I submit to you these enlarged aerial photographs of the Rockfort, Fulton, and Aransas Pass, Tex., ports which vividly depict the severity of the situation. Those pictures exhibit the condition of our fishery.

Your legislation is an excellent starting point, but it must be expanded if we are to really benefit from it. Our need is immediate. The assistance we seek must be immediate. If we are to put our fleets back in service, we need immediate action. Legislative or otherwise, it must be now, gentlemen.

Thank you.

[The prepared statement of Mr. Jackson follows:]

STATEMENT OF JOHN P. JACKSON

Gentlemen,

My name is John P. Jackson. I am a third generation member of a successful shrimp business family located in Rockport, Texas. I want to thank the committee for the opportunity to publicly voice my support to H. R. 7039, the American Fisheries Promotion Act.

The bill has some very positive, well conceived provisions that will help alleviate some of the problems that we in the producing industry are currently facing. The restructuring of the Fisheries Loan Fund is a good concept, but I personally believe that 1) it discriminates against those producers who do not have guaranteed loans and who may be in just as much need for financial assistance and 2) the funds should also be provided to cover actual operating expenses as well as the principal and interest payments. One other suggestion is that the loans be administered only to boat owners and fishermen who derive their income primarily from the industry as differentiated from the "investor" type boat owner.

The new fees on foreign fishermen is another laudable provision. However, in my opinion, the wording should also include language relating to imposition of a direct tariff and quota on foreign imported product in addition to the fees for catching fish in our FCZ. This is the only real way that we in the shrimp industry will be able to compete with our Mexican counterparts.

The extension of the Capital Construction Fund to shoreside facilities is a tax incentive that is long overdue and the phase-out of foreign fishing is another provision which has considerable merit.

In short, gentlemen, I wholeheartedly endorse the bill but I think that it does fall short of being the all encompassing legislation we desperately need. My primary concern is that there is nothing in the bill which is "immediate". "The U. S. Fishing Industry must secure immediate fusion of capital until long range remedial programs can be devised and implemented which will bring the industry back to a profit-making status." Although some may voice overcapitalization as a concern, I must discount that theory because the crisis we are now facing is reaching even the most experienced and proven successful businessmen. Thus this immediate fusion of capital is desperately needed to prevent even the most prudent managers from going bankrupt because of the impending crisis.

My family has been no stranger to disasters in the past. Over the years we have suffered three major fires, deaths in the family business and devastating hurricanes, each of which could have been a fatal blow. But in each case we were able to save our boats which gave us a nucleus on which to rebuild. The one difference is that now we are going to lose that nucleus and it seems we don't have any control over that destiny. The two major causes of this crisis are a depressed market for our product while suffering the simultaneous rising fuel costs. These two blows have rendered us virtually helpless.

Some uninformed outsider, when responding to our complaints of high fuel costs, might argue that any industry dependent on fuel is suffering the same plight, and what makes our cause so unique? And the answer to that is really very simple. Unlike most of those other industries, we are not able to pass on these increased costs. We have absolutely no direct control over the price of our product. Furthermore, the U. S. shrimp industry in the Gulf of Mexico is even more unique. We in the shrimp business are the first to feel the effects of the high diesel costs because, unlike most other fisheries, it has been the custom for the shrimp boat owner to pay all of the fuel costs whereby others consider it as a crew expense. And yet another crippling blow to our regional fishery has been the phase out of American shrimping in Mexican waters. The Brownsville and Port Isabel shrimp producers, largest fleet in the country in terms of landings and ex-vessel value of shrimp, has been forever locked out of their primary fishing grounds. Their only alternative is to continue shrimping in the northern Gulf Coast and add their numbers to the already overfished grounds.

As if this was not enough, the U. S. market for our product is considerably depressed. The domestic industry is competing on the world market with many underdeveloped nations whose governments subsidize their fishing fleets. For example, the fuel price in Mexico is about 17¢ per gallon and I understand about 40¢ per gallon in Canada. Many other countries have similar provisions to benefit and assist their fisheries. This is all well and good but our country imports these products which are naturally lower priced than domestically produced shrimp. These products come into this country free of any tariff or quota and are marketed at the expense of our own industry. The prospect for a strengthened market looks even more bleak as the larger brokers and dealers will be severely curtailed in their levels of inventory holdings of frozen product because the interest on their money has become cost prohibitive. At this very moment, over 90% of the shrimp fleet from Key West to Brownsville is tied up because it is simply a losing proposition to go shrimping. Many of the boat owners possess government guaranteed loans and are facing default. The holders of some of these notes are almost eager to call the overdue notes because of their characteristic low interest rates. I ask you gentlemen, just what will the Government do with

$200 million worth of fishing boats?

There are countless other problems that effect each fishery, but the one thing we all have in common is the high cost of fuel. For the first time, the historically divided U. S. fishing industry has a common problem, the high cost of fuel, and we all stand united. Unlike the automobile owner who can be discretionary in his driving habits and choice of cars, we are forced to use fuel on a nondiscretionary basis. At an industry meeting in Washington recently, key government people in attendance that day predicted only worse times ahead. One example was that fuel would be $1.50 per gallon by July of this year, with fuel expected to peak out at a level in 1985 of around $2.75 per gallon. We in the Gulf are forced to tie up our boats during this, our off season, with fuel about 95¢ per gallon. If fuel reaches $1.50 per gallon by July, we still will not be able to operate even during the season. Fishermen are a proud lot; we subscribe to a philosophy of survival of the fittest, but none will survive under the conditions we currently face. All the government officials in attendance scoffed at any possible success from an attempt to request a fuel subsidy or price support mechanism. This negativism is further enhanced by the administration's crackdown on balancing the budget. I personally agree with balancing the budget and slowing down the economy to arrest inflation. The country is finally paying its dues and although people will suffer in the short run, the long range effect will be positive. But, I personally cannot believe that the United States is willing to sacrifice its entire fishing industry in the process. The shrimp industry is already on its knees and the other segment's days are numbered. Representatives from the East and West Coasts that day predicted boats tying up this summer if the current trend continues.

I do not profess to have all the answers. Some good and positive steps are being taken already. One is the formation of the Gulf of Mexico Fishery Management Council and its recent draft of the Shrimp Plan which I contributed to and wholeheartedly endorse. Better management of our resources is long overdue. Other steps, like low interest Small Business Administration loans only serve as a "Band-Aid" for the real wounds. How can we hope to pay these loans back if we still are unable to operate at a profit? Long term solutions such as changing methods of operation, more efficient hull designs, use of alternative fuels, more fuel-efficient engines, development of new fisheries, updating of gear technology, etc. are all on the horizon, but we sincerely believe that none of us will be around to enjoy those benefits if something immediate is not accomplished. Most fishery related legislation in recent years has been supportive of the "long term development and enhancement of our fisheries." However, under this new set of parameters, I believe it is time to place that type of thinking on the back burner and tend to the business at hand, that of resurrecting a dying industry.

In closing, I beseech you, with all the wisdom and knowledge gathered here today, to take this bill as a starting point and build upon it to pass meaningful legislation to prevent the imminent extinction of the U. S. Fishery from becoming a horrible reality.

Mr. **Zimmerman**. Thank you, Mr. Chairman. We are now ready for questions.

Mr. **Breaux**. Gentlemen, thank you very much for a very excellent presentation and a detailed account of your particular industry and the problems that it is facing, which indeed are common throughout the entire Gulf of Mexico.

I would say the weather we have been having is even going to aggravate that situation.

I have one person who will be testifying later on. While it is not a common observation, it is one that I have heard before. I would just like one of you to comment on it.

One of the witnesses will say that the majority of vessels that are in danger of defaulting on their vessel loans, are doing so for several reasons. He lists the reasons as being nonprofessional, incompetent captains, and the effect on the supply situation driving the price of fish down.

What is your comment on that? You obviously have listed a whole slew of reasons why you think the industry is in trouble. However, some people say it is just because of nonprofessional operations and incompetent captains.

Mr. **Clegg**. I will answer that question, Mr. Congressman.

The fishing vessel obligation program I think contributed to our flight today, when they reduced the required downpayment to 12.5 percent. It caused a rapid buildup of vessels.

In fact, I understand there are many people who have purchased these vessels that are not full-time people in the fishing industry. I am talking about investors.

Mr. **Breaux**. Do we have simply too many people in the shrimp business?

Mr. **Clegg**. State the question again, sir.

Mr. **Breaux**. Do we simply have too many people in the shrimping business, from the harvesting standpoint?

Mr. **Clegg**. It certainly appears we might possibly be reaching a point where we have too many vessels in the U.S. shrimp industry in the gulf at this time.

Mr. **Breaux**. What is the reason, if anyone knows, as to why the harvesting of this year is so low in comparison to last year.

Mr. **Clegg**. Let me expand on your last question a little bit. When Mexico phased us out of fishing in their waters, that put a tremendous impact on the U.S. grounds. We had many, many more boats in fishing, competing for the shrimp that we have.

Now, your second question was the reason for the increased investors? Is that what I understand?

Mr. **Breaux**. No. I am talking about your catch this year. One of the witnesses pointed out how high the Mexican catch is and yet I am told, and I would agree with that, that our production this year is way, way down.

With the upcoming season the indications are that it will continue to be way, way down. Is there any particular reason for it?

Mr. **Zimmerman**. Our problem is environmental basically. As you know, what just happened—you are talking about the rain now. Our shrimp are hatched in the gulf, and the small shrimp come into the base and come into nursery areas to grow up. They are affected by temperature variations, salinity, and what have you.

Last year Galveston Bay had a tremendous rain. It flooded the bay and turned into just fresh water, and it killed all the brown shrimp——

Mr. **Breaux**. Part of Texas last year declared a disaster for the shrimp industry, or was it just limited to oysters?

Mr. **Zimmerman**. The brown shrimp crop is what it is. It also affected the crop coming out of Louisiana the same way. As you know, we catch a lot of shrimp that do come out of Louisiana.

The same thing, we were told just about 45 days ago, we thought we were going to have three times the amount of shrimp we had last year. A later norther came through and killed a lot of the small shrimp because of the difference in the temperature in the bay.

People don't want to say this, but we are farmers. The only difference is we don't plant the seed. But we are a producer. We have our growths and we have our good years, and we have our bad years.

We understand and accept this. We accept recessions. This is fine. We have gone through them before. But our problem is that we are trying to compete with people, as we mentioned.

Our basic problem is we cannot compete with foreign governments. We are trying to compete with foreign governments that are being subsidized and they are bringing their product right here. There is no way.

We will be willing to change. We are going to change to other fisheries. We are going to have to.

Mr. **Breaux**. If your supply is down so much in the normal marketplace, the price would tend to increase, when you have a shortage of supply. Why is that not occurring?

Mr. **Zimmerman**. We are having sort of a world recession. The Japanese consume a lot of shrimp. They consume more than this country. When they quit buying—in our own economy, we see all the people in the automotive industry out of work.

When we go through a recession, there is no one to buy the product, and therefore your inventories build up. It creates a low price.

Mr. **Breaux**. What is the inventory condition? Are the inventories being worked out now with regard to shrimp, which would theoretically have a positive price effect?

Mr. **Zimmerman**. Yes, sir, it has helped. But still even the Mexicans right now are reluctant. They flooded the market, for one thing. Normally in the wintertime there is a lower catch, the price will go up.

The Mexicans held shrimp and them dumped them on our market. That also hurt the price.

Mr. **Breaux**. Mr. Clegg, you made a very interesting suggestion, being that any countries that we allow to sell fish products in the United States, like Mexico, for instance, with regard to shrimp, also should be required to allow our harvesting industry to fish their waters, within their 200-mile zone, if there is a surplus over what those nations can harvest.

Mr. **Clegg**. Yes, sir, that is absolutely correct.

Mr. **Breaux**. What would that do? If we were able to fish for shrimp within the Mexican zone, how would that have an effect on our industry?

Mr. **Clegg**. Are you saying if we were able to fish for shrimp in Mexican waters?

Mr. **Breaux**. That is right.

Mr. **Clegg**. It will spread out the gulf shrimp fleet, like it used to be. I think you would see catch per boat raise some. Of course, that would help us overcome our high operating costs, if we can get annual dollar yield up.

Mr. **Breaux**. We are too concentrated in too small of an area right now?

Mr. **Clegg**. Yes, sir. When we had to bring all these boats back from Mexico, it put more boats competing for the same amount of shrimp.

Mr. **Breaux**. Of course, if we were allowed to fish in Mexico, it wouldn't have anything to do with your fuel problems. You are just going to add to your fuel problems, if you have to run down to Mexico. It will cost more.

Mr. **Clegg**. Yes, sir, but we are also going to be able to I think yield more per boat, as I said, spread the fleet out.

Mr. **Breaux**. What are your comments with regard to the Fisherman's Loan Fund? Would you like to see the priority removed for those who have title XI mortgages on their boats?

Mr. **Clegg**. Absolutely, sir. Absolutely. I feel that there are more people in danger of defaulting that do not have——

Mr. **Breaux**. You would not want a priority for title XI mortgage holders. Just open it up across the board.

Mr. **Clegg**. We would want that available to all.

Mr. **Breaux**. One of your concerns, Mr. Clegg, was the fact we need to do something immediately. One thing we have been working on with your people here in Washington is trying to get released $6 million that has been in the fund since 1972, just sitting there, not being used.

We are trying to get the National Marine Fisheries Service to okay its release. That would offer immediate help.

Mr. Forsythe, questions?

Mr. **Forsythe**. Thank you, Mr. Chairman.

I thank a very full and interesting panel that gave very good testimony.

All seem to be agreed that one of the basic problems is the Mexican phaseout of our fishing and the Mexican fuel subsidy which you are arguing results in the Mexican's preempting our markets.

However, the numbers seem to indicate that while the U.S. landings are below the 5-year average, consumption is really down over the same period, and imports have gone down faster than our U.S. landings.

Can anybody comment on that?

Mr. **Clegg**. Imports have gone down, sir?

Mr. **Forsythe**. Faster than our fall in landings; 1976, 19.1 million pounds; 1977, 18.9; 1978, 16.2; 1979, 13 million pounds. This is for the month of January alone. But the quarterly average is about 5 million pounds below 1975–79 for the quarter.

Now, this is comparing the first quarter 1979 with the average for the first quarter 1975–79.

Mr. ZIMMERMAN. It has to do a lot with the economy of the country. The whole country, as we know, is in a recession, sir. It just has been announced 30 days ago we were in a recession. We have been in a recession for the last 6 months. It took the administration just a long time to find out we were in trouble.

When I see in the paper how the automotive industry is having to lay off people—we realize these people consume shrimp. We also have a problem of when the consumer doesn't have gasoline or cannot afford to buy gasoline to travel, he doesn't go to the restaurants.

Seventy percent of our shrimp are sold in restaurants. When we stop travel, then we are going to have to change the method of maybe marketing our shrimp. We are going to have to teach the housewife or someone how to use it.

But our basic problem is the economy. We understand this.

Mr. FORSYTHE. Is it economy?

Mr. ZIMMERMAN. Yes, sir.

Mr. FORSYTHE. In other words, the domestic market is your primary problem.

Mr. ZIMMERMAN. Yes, sir.

Mr. FORSYTHE. Now, then, the question of the fuel cost problem, of course, becomes something of concern. Apparently we are having some variance in testimony as to what proportion of operational costs are fuel?

I have seen figures as high as 50 percent of cost to as low as 25 percent. Can somebody help me?

Mr. CLEGG. Sir?

Mr. FORSYTHE. Mr. Clegg.

Mr. CLEGG. Mr. Silchenstedt?

Mr. SILCHENSTEDT. Mr. Forsythe, I would like to get back into the unprofessional operator that I think Mr. Breaux mentioned.

The U.S. shrimp fleet is probably the most qualified fisherman on the face of the Earth today. All the technology that is out today has come from the American fisherman, mainly the gulf coast fisherman.

In the little yard we are in we have spent tens of thousands of dollars, testing models at the University of Michigan. We have the best boats the world has to offer. That is the reason people buy them. They don't buy them because they are cheap. They buy them because they will catch shrimp.

We spend a lot of money testing nozzles, different propellers, gear ratios, different styles of fishing, double rig, quad rigs, everything. All this is going on, and probably people up here don't realize that.

We don't think there is a boat on the face of the Earth that can work any cheaper than an American shrimp boat can today. I would deny anybody that they cannot produce shrimp with an American fishing boat, or an American shrimp boat, that we call a first-class boat.

This program has brought more honest dollars to this country, has put more people to work in this country than any program the Government has ever initiated, to my knowledge.

There are billions of dollars. A lot of it has been exports. You cannot sit by and let them wipe us out because we cannot pay for fuel. That is really the problem.

In one of my letters I mention right today we are $1.40 a pound undercompeting with Mexico. Every time our fuel goes up, we are going to be that much further behind on the market. Surely they are going to hold their imports back. They know we cannot do anything.

My fleet, compared to what I did in 1978—we averaged 18,800 pounds in the first 4 months of the year. In 1979, that was a half, due to bad weather. Normally we would have jumped back, in a normal cycle. This year we have only caught 3,563, about maybe one-fifth of the shrimp.

As we go on into it, we are faced with the same problem, and a harder problem. The market is depressed but the Mexicans and the Brazilians can depress our market at will.

Mr. ZIMMERMAN. We need to get back and answer the question.

Mr. FORSYTHE. Yes, I would like to get back to my question. That is on the fuel cost problem.

Mr. CLEGG. My experience on fuel, I think 50 percent is probably high. My experience in my operations—and I can't give you a precise figure—I would say 25 to 30 percent of my operating costs are fuel.

In 1973, when we first had our first crisis, price increase in fuel, prior to that it had been 8-point-something percent, and then it jumped to 13-point-something percent. Now here we are 25 to 30.

Mr. FORSYTHE. Well, would there be a consensus that if the economy were to straighten out, so our market was good, and the price is good, do you still think fuel would be an overriding problem?

Mr. CLEGG. Well, we are faced with this projection. The Department of Energy people tell us $1.50 a gallon by July of this year. I don't think we can have an economy beginning to improve——

Mr. FORSYTHE. You know, everything is tied to that kind of energy cost and energy escalation. All kinds of transportation, all kinds of cars and other things are tied to fuel costs.

Mr. ZIMMERMAN. Mr. Forsythe, let me add, in 1979 we came through 1979 because we started off with about 45 cent a gallon fuel, and we had an extremely high market. The market was still high at the end of the year, but we were paying 90 cents a gallon, and we were not doing anything at all, sir. We were marking time.

Now, we understand that the market goes up and down, and the market is depressed right now. But we expect to see prices come back up, once you get the Nation's economy straight.

But there is now a way we can survive with $1.25-, $1.50- or $2-a-gallon fuel. There is just no way. All we are going to do is fish 2 months out of the year when the shrimp are knee deep to a giraffe.

You have to go out and search and try to find them. You cannot go out—it is just like trying to catch somebody speeding down a road. If you don't get the policeman out in the car to try to catch them, you won't get there.

Mr. FORSYTHE. I really didn't mean to lead you into discussing actual fuel costs, where really your problem is the differential in fuel costs. If Mexico fuel is costing their shrimpers the same as you, it would change the story a little bit.

Mr. **Zimmerman**. If we were only paying 17 cents a gallon, sir, we would not be here today, I guarantee you that.

Mr. **Forsythe**. In other words, it is the differential more than it is actual dollar cost.

Mr. **Zimmerman**. Well, it is our cost, it is taken out of our gross. That is the reason I don't want you to leave here today and say it is the market. We understand it is the market right now, but the price of fuel was affecting us when the price was good at the end of the year. Right now we understand it is the market, yes, sir.

Mr. **Forsythe**. The question of capitalization.

Mr. **Herndon**. One thing the Mexicans are doing, also. When they phased out our fishing, they had been continually trying to encourage U.S. boat owners into a joint venture with them.

Of course, we are having to take a look at it. I never thought I would ever want to send a boat or anything else to Mexico because, frankly, I don't trust them that much. But with 17 cent fuel, and the same market with no tariff on it, they can outfish us.

You think, well, I am going to sit here and lose my boat, maybe I will go down there and try it a little, I might find an honest one to go with me.

But joint ventures is not the answer. Let them take the U.S. boat? I think this Government is too strong to sit here and fall for something like that. Consider our balance of payments now—the seafood industry accounts for 10 percent of the deficit. If all of our boats get into joint ventures with Mexico, they will continue to catch the shrimp and subsidize their vessels, send the shrimp over here duty free, and deficit is going to be more balanced.

I just don't think that we should stand for that.

Mr. **Jackson**. May I add to that. I would like to reiterate what Mr. Zimmerman was saying. I think some of you have gotten the wrong impression. We started talking about depressed markets. The reason we are here today is because of the price of diesel fuel. The depressed market and the price differential from other countries is another sideline, but I think everyone on this panel will agree if we had a reasonable cost of fuel, we would not be here.

Mr. **Forsythe**. Well, that does get to a question because that is not capital, it is operating cost. I guess you are saying that you just have to have subsidized fuel costs.

Mr. **Jackson**. No, sir, we are not.

Mr. **Forsythe**. Well, then, what are you saying?

Mr. **Jackson**. We realize in the shortrun at least we probably cannot do anything about the fuel situation, so we have to go to other areas to try to strengthen our market, is one area.

Mr. **Forsythe**. Well, I think I was trying to move into another area. When I mentioned overcapitalization, some people this morning said the fleet is not overcapitalized.

Mr. Jackson pointed out that the phaseout of shrimping in Mexican waters resulted in boats coming back into already overfished grounds. How do we look at that problem?

Mr. **Clegg**. What is it you would like to address?

Mr. **Forsythe**. Are there more boats than the resource can handle? Are we overfishing?

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Mr. **Clegg**. We have a combination of overfishing. I can expand on that. I think I did in my written testimony there before you.

Yes; I personally feel that we have probably built too many shrimp boats. In that written testimony you also have my reasons for thinking that; that is, the fishing vessel mortgage guarantee program I think helped do that.

Mr. **Herndon**. If you cut them in half now, you still could not make a profit.

Mr. **Forsythe**. We have got two or three things running here at the same time. I think they all are very, very serious. That is why I want to try to get as much as I can. But if we do in fact have too many boats, then does the loan program which continues many of these in the fishery really serve a long-term benefit to the total fishery?

Mr. **Herndon**. We developed fishing areas off Mexico and off Brazil. Of course, with all those boats that continually fished off of those countries have been forced back into the U.S. waters, and we are still continuing to lend support financially to those countries to develop their fishing that we initiated, and our boats are forced to come back here.

Mr. **Forsythe**. We need to be able to have boats back in those waters?

Mr. **Herndon**. That is right, but they are too smart for us. They are not going to let us do that. We are still continuing to subsidize their countries and they are subsidizing their fleets. That is what it amounts to, with our money.

Mr. **Forsythe**. Mr. Chairman, unless somebody has another comment——

Mr. **Zimmerman**. Just one thing. We are trying to solve our problem. We are going to change into other fisheries. We are going to help solve part of the problem. In fact, this is already in the process right now.

But even under normal times, without an overabundance of fisheries, the fuel problem, we have no other source to go to. We cannot use atomic energy. We cannot use coal.

The problems that you are having right now to try to come up with atomic energy for generating electricity, which would maybe create a surplus of diesel fuel, it looks like 20 or 30 years before you do that.

So, I don't know how we are going to solve our problem. If we are asking for a subsidy, we are asking from an import duty to create a fund. We are not asking the public to pay for it.

The thing is, if you put the American fisherman out of business, then we are subject to take whatever they want to charge us when they come back.

Mr. **Forsythe**. Well, believe me, I haven't been here for most all the time I have been in Washington looking for the FCMA and the other legislation I am involved with to see you or any fishery go out of business.

But we do have major problems. I am going to find some ways to make corrections.

Mr. **Silchenstedt**. I think that Bobby Clegg is talking about the problem on the ground. In a little company we have with 18 boats elected here, right after Christmas, to try to keep our better captains and let them fish regardless of the fuel, more or less subsidize our crews to keep them intact.

We lost so rapidly that my cash flow began to go out. So we looked into the long line, and we have three boats long-lining to the tune of $100,000. We probably should have been paying notes with that, instead of gambling on the fact that maybe we could do something in the tuna business. Now we have four boats that are gigging and poling for tuna, which are not doing any good.

But those things are available to us if you can help us hang on here in an intelligent manner. I don't feel myself that overfishing is a problem. I think again, as Sid Herndon said, if we had an adequate price of fuel, that we can compete with anybody, in any market.

We have done it. We have proved it over the years. The good and bad years have never hurt us. We stumble around and make it.

I think what we need now is some help from you people to realize that we are in trouble and that we are not overcapitalized, and that we are here because a lot of things have been thrown to us that we didn't know were coming and that we cannot stand up and fight because there is no way to fight it, except through you gentlemen.

Mr. **Forsythe**. Well, I appreciate your testimony very much. I just don't want to get in a position of those statements that people are very wary of. The first one is the check is in the mail, the second one is, "I am from the Government and I am here to help you."

Thank you.

Mr. **Breaux**. Mr. Wyatt?

Mr. **Wyatt**. Thank you, Mr. Chairman.

I, if possible, would like to ask about capital in terms of new capital and potential for creating different markets.

Is it possible, for instance, to fish for species other than shrimp on the same vessel in the gulf area?

Mr. **Jackson**. Is it possible on a shrimp boat to fish alternative fishing? We are doing it now. We are doing it in swordfishing, tuna fishing, snapper fishing. I alluded to that in the testimony.

In some cases it doesn't take that much investment, but particularly in swordfishing there is considerable investment.

Mr. **Wyatt**. What is that investment?

Mr. **Jackson**. About $30,000 would do it on most conventional shrimp boats.

Mr. **Wyatt**. Are you then seeking in this legislation to have the ability to obtain some capital to go into the alternative species, production?

Mr. **Jackson**. If the fisheries loan fund was implemented and money was available that would certainly be one of the avenues which we approach. Over and above that would be mainly just closing the gap between our operating costs and what we are able to get in shrimp revenue, and also staying current on mortgage and interest payments.

Mr. **Breaux**. Would the gentleman yield?

Would you explain, for my information and the committee's, how you convert a shrimp boat to catching swordfish and tuna? Do you long-line them?

Mr. **Jackson**. Yes, sir. Primarily you have a different kind of winch in long-lining for swordfish. It has some characteristics that a shrimp boat winch does not have. Most all of them are hydraulic. Very few shrimp boat winches are. They have variable speeds.

To buy a winch and install it, put the hydraulics in, plus the fishing gear itself, you have anywhere from 10 to 20 to 30 miles of gear strung out behind that boat at a cost of approximately $1,000 a mile. So that is your main consideration right there.

Another thing is, a lot of the people who have swordfishing boats need another steering station. They can't have just one helm. They have to have another one, preferably topside or on one side of the boat so they can more easily maneuver the boat when picking up their long line.

Mr. **Silchenstedt**. Could I add something? Mr. Herndon, I know, has one boat, and I am sure also Mr. Silchenstedt. Several of these boats are equipped to do several things. They are catching tuna, also the swordfish, even snapper. We are trying to put anything on deck that will produce revenue for ourselves and the crews. Our crews are beginning to work up and understand. They have been out of work and they can see that they are going to have to do the same thing. We are buckling down anything we put on deck we are going to come in and try to sell it.

Mr. **Wyatt**. What is your experience; have you had much experience in conversion yet? Do you have enough experience to make a determination as to whether this is going to be successful in terms of any transition period over a period of years that it will help you develop your industry and make it viable again?

Mr. **Silchenstedt**. Well, as I say, we have three boats long-lining for swordfishing, and we have three or four boats jigging for tuna and whatever, and at this instant we haven't done anything other than probably learn, but it apparently will be something that we could get in off-season and do very well at it. Fortunately, it looks like, from what little we can pick up from the Japanese fleet that is working in the gulf, that the tuna or the long-lining for the swordfish does not coincide with our best shrimp months, so in off months we theoretically can catch swordfish and tuna, and then jump right back pulling that little reel off the back deck and start shrimping, and we are doing that.

Mr. **Wyatt**. Are you currently getting help from the Government in this area?

Mr. **Silchenstedt**. No.

Mr. **Wyatt**. In other words, technical expertise, support of that nature?

Mr. **Silchenstedt**. No, sir, we are not getting anything. As I said a while ago, we took the money we probably should have been paying boat notes with to see what we could do in swordfish.

Mr. **Wyatt**. You are using your own capital to attempt to develop the market to get the expertise in increasing your catch, et cetera?

Mr. **Silchenstedt**. That is what I am doing.

Mr. **Wyatt**. And very little help is coming in the area of information, technical data, et cetera, at this time from the Government itself?

Mr. ZIMMERMAN. The only help we have been doing is Texas A. & M.

Mr. WYATT. Through the sea grant program, Walter. Let's not get it down to just one university.

Mr. ZIMMERMAN. All right. It comes through their marine agent which comes through the sea grants.

Mr. WYATT. I am well aware, and they do an excellent job.

Mr. ZIMMERMAN. They do a very good job and we appreciate it.

Mr. WYATT. That is a program.

Mr. ZIMMERMAN. All of us have a marine agent and without this individual I don't know how we ever got along without him, I really don't.

Mr. SILCHENSTEDT. The only frightening thing is right out there, while we are out there the Cuban boats and Japanese boats are long-lining.

Mr. WYATT. Within the American 200-mile limits?

Mr. SILCHENSTEDT. They are offshore there.

Mr. WYATT. But within the 200-mile limit?

Mr. SILCHENSTEDT. Yes, that's right.

Mr. HERNDON. Mr. Wyatt, we have some new boats. Walter Zimmerman is building them and when this thing happened it was a little bit late. We had already paid and signed a contract for these boats, so we had to take delivery on them, hoping to sell used boats which is impossible to do because nobody wants a boat right now. But we have what we call a Kort nozzle, a sleeve on a propeller that is supposed to save some fuel. I think it has been said it will save somewhere around 15 to 18 percent. We hope this works out.

We have taken delivery on these boats. Not only did we rig them for shrimping, but we put the additional winch and other gear for long-lining and swordfishing, and then we also rigged them up for pole and line tuna fishing. What we intend to do in our company, is have every boat that goes fishing for shrimp—when we do put them back into service, and I have boats that have been tied up since the middle of December last year, because as I pointed out we lost less money that way—also have the cheapest outfitting available which is pole and line tuna fishing. It can be done along with shrimp fishing.

Every boat we have will be shrimp fishing at night for brown shrimp, and in the early morning hours when they pull up the last drag, they will work a few hours on tuna because that seems to be the best time to catch the blackfin tuna. It only costs about $1,500 to rig up for tuna fishing, so we are going to have all of the boats equipped for that, and attempt to subsidize our operation some by putting a few tons of blackfin tuna in one part of the hold and shrimp in the other part.

Mr. BREAUX. Will the gentleman yield?

Mr. WYATT. I will be happy to yield to the chairman.

Mr. BREAUX. Where do we process tuna or swordfish in the gulf?

Mr. HERNDON. Unfortunately, we have to deliver the tuna to the west coast.

Mr. BREAUX. So these funds in this legislation which would allow money to be used for onshore processing plants could conceivably be used for a processing facility in the gulf?

Mr. **Herndon**. Yes. It takes a long time to develop anything. We want to make sure, of course, that we have the quantity there. We have had the major tuna canneries' people over here looking at the operation. Of course, I hope it doesn't look so lucrative that they bring their tuna clippers over here with their big nets and all, but we hope that there is enough supply there so that we can subsidize our own fishing operation some with the same fuel by catching a few tons of blackfin—even if we have to haul them to California.

We are looking right now at freezing them on the gulf coast, and maybe when we get 100 tons put them on a ship—they say that they can can them cheaper in Puerto Rico. We are studying it from all angles, but it takes time—and I hope we can hold out.

Mr. **Breaux**. I would encourage you to really move in that area. The Japanese think that it is a lucrative enough market to come all the way from Japan to fish tuna within the gulf, and that should give us some indication that it has a real potential for us to develop.

I thank the gentleman for yielding.

Mr. **Wyatt**. Further, I would like to pursue the capital flow, the cash flow and the capitalization that Mr. Forsythe made mention of. Part of the major problem at this time is a cash flow problem. I guess it is a situation that many industries have in this country, but there are some factors involved that other industries probably don't, or may not face at least. You are having a cash flow problem, and one of the reasons for the loans would be to attempt to work out your particular, I guess, problem and situation over a period of time, until you can fully develop other sources. Is that not correct?

Mr. **Herndon**. Yes, at a reasonable rate, if possible. The high interest rates were held too high too long, and, of course, we are all suffering from that now, but it affects our product more because when we get in a recession, it seems that some people look on shrimp as a luxury item. I don't. I love it.

I would eat it every meal if I could afford it, but that seems to be the first thing they cut out. So I am afraid that consumption is falling down some, and the buyers don't buy but a day-to-day supply, where they used to be able to afford with cheaper interest rates and inventory a larger supply. Sometime later when they need it, they don't have it, to sell.

I think we are suffering quite a bit from the high cost of money. But fuel, of course, is our main problem, and I see no help there.

When they went up $2 a barrel, I heard one major company, say that it would affect gasoline prices 1 cent a gallon. Then I heard the news that another company had gone up 4 cents a gallon on gasoline and 6 cents on diesel, so I don't know how they figure it.

Mr. **Collins**. In years past we have harvested shrimp as the most valuable resource in the gulf. In my experience shrimping and fishing I have come to realize now that we will have to use everything we catch in the gulf, underutilized species, and for the big fellow that has got the resources, it is nothing to convert, but for the little guy he will need financial assistance, put freezers onboard or converting to other sources. But it is the little fellow that doesn't have the resources and he will have to have financial assistance.

Mr. **Zimmerman**. As you know, as we mentioned, high interest has been our problem, because this has been a national problem. But as this program goes so the fund goes, we need to get out to hold the industry together. We are talking about a loan 7 to 9 percent. That is what we would like to see come in. I know we have some boats right now that are financed on the prevailing prime rate. Two points above the prime rate really hits you kind of hard, especially when it is the hard time of the year. Nobody anticipated ever seeing these interest rates, so if there is any way that the committee can see that we can in the loan reach something in that area of 9 percent, we would appreciate it.

Mr. **Wyatt**. I would have a question there. Are these people that are taking delivery of boats, I would assume taking delivery of boats at the prime rate, are these folks who have been in the industry for a long time, or are these folks that have gotten into the business in recent years, or are attempting now to go into the business?

Mr. **Zimmerman**. No, sir, it is a variable. There is a lot of people that if you could get the bank to say they would stay with the rate, they would. Now, title 11 sets a certain rate. It also carries it over a long period of time. There is a good percentage of them. We never have had one set on a certain basis. We have always set it on a prime rate, because when it goes down it is nice to go down, but it never has doubled like it has at this time.

Mr. **Wyatt**. And you are taking delivery of boats at this time?

Mr. **Zimmerman**. Not taking delivery. I am just trying to live with mortgages we have had for 8 years, you see. Of course, we have got things paid. Some of these are down, but some of the boats are only 4 years old, and it is just a practice that we have done.

Mr. **Wyatt**. But you are saying that you take delivery of the boats at prime rates. I am sorry, I should have limited the question. Who is taking delivery of boats at the current prime rate?

Mr. **Zimmerman**. No one. But, see, if you have already got a note on a basis that you are going on prime rate plus, you are hung. It's a contract.

Mr. **Wyatt**. You have got the contract, though. The contract for the boat was made some years ago?

Mr. **Zimmerman**. Yes, sir.

Mr. **Jackson**. I would say that any boat loan that was procured in the last 6 to 10 months was done at a variable rate anyway, so that even if you built a boat in the early part of 1979 you have got a fluctuating rate above prime, even though you are not taking delivery of boats now. You still face the prime interest rate.

Mr. **Wyatt**. Because of the variable rate?

Mr. **Jackson**. Yes. I don't think very many financial institutions are even interested in talking about loaning money for anything on a fixed rate. At least that has been my personal experience.

Mr. **Zimmerman**. Another problem is some of the banks, the smaller operators are in trouble, and they go back and they want to refinance or something like that, and it's automatically at the new rate. They don't give it to you at the old one anymore. Anytime you change and come in and remortgage or just increase, you have been paying off, they come around and they have changed it on everybody.

Mr. **Wyatt**. They are not doing that just with boatowners?

Mr. **Zimmerman**. No, sir, I would imagine not.

Mr. **Wyatt**. Do you think that the purposes of Kennedy-Saltonstall, the original purpose of Kennedy-Saltonstall, is currently being met to the extent of what you perceive to be congressional intent?

Mr. **Clegg**. State the question again.

Mr. **Wyatt**. Do you think the purposes of Kennedy-Saltonstall funds are being met?

Mr. **Clegg**. I really can't answer that. That is a little bit technical for me.

Mr. **Wyatt**. You may have answered it a moment ago, but in essence the purpose is to provide marketing development funds for the fishing industry, and also funds for the transfer of harvesting technology, and apparently, from what you said earlier, this is not being done in today's market, or today.

Mr. **Zimmerman**. They are trying to get some programs started. At this time we feel like that they shouldn't get any new programs on the wagon until we take care of the ones we have right now. We need to get new industry into fishing. We need to be able to harvest everything that is within our 200 miles, there is no question about it. I do think maybe because of the crisis right now we may want to delay that until we can get whatever time it takes to get the industry leveled out.

Mr. **Wyatt**. If I may, since I am using a lot of time, I would like to change, if I could, to another question. What is, in essence, the subsidy in the Mexican fuel market? Are you aware of what it is?

Mr. **Zimmerman**. The what, sir?

Mr. **Wyatt**. The subsidy of the Mexican fuel market.

Mr. **Zimmerman**. They are paying 17 cents. Now gasoline is not that price. Their diesel fuel is around 17 cents. You can go across the river and get it in your car and they will put in 10 gallons or 5 gallons at 17 cents, and when you buy it, the industrial fuel, which may be 4,000 or 5,000 gallons, I have heard of some yachts going down and paying maybe 20 cents, but that is boats coming in. Gasoline is running right at 60 cents, sir. It is much higher. They have decided they are going to subsidize their industry.

Mr. **Wyatt**. In other words, they are subsidizing diesel in Mexico, in essence, there?

Mr. **Zimmerman**. Yes.

Mr. **Wyatt**. It is not a specific program to help?

Mr. **Zimmerman**. Everyone gets that opportunity, not just the fishing industry.

Mr. **Herndon**. I think there are other ways that they do it, but I don't know what they are. I have heard that there are other ways that they do subsidize.

Mr. **Wyatt**. But the primary problem is the fuel differential cost?

Mr. **Herndon**. Right, and you just can't compete that way. They will end up getting all the business.

Mr. **Zimmerman**. They also beat us on labor, and we haven't complained about labor.

Mr. Wyatt. Let me ask this question. Do you have the ability to go to Mexico and buy fuel and bring it back across the river?

Mr. Herndon. No.

Mr. Zimmerman. Even if you take a pickup over right now, and have a drum back there, they will not let you bring it across the river.

Mr. Wyatt. Who won't?

Mr. Zimmerman. The Mexican authorities.

Mr. Wyatt. The Mexican authorities won't allow the exportation of their fuel?

Mr. Zimmerman. That is right.

Mr. Wyatt. Although they have it available?

Mr. Zimmerman. Yes, sir.

Mr. Wyatt. What happens with one of our boats; could it go refuel in Mexico at 16 or 17 cents?

Mr. Zimmerman. No, sir, they won't allow us to come into port.

Mr. Wyatt. The Mexican Government prohibits that practice?

Mr. Zimmerman. Right, sir. The only time that you can go into a port, they have one free port, I believe, off the gulf, and you can go in there for manufacturing reasons only or to do your business. If you are going to operate out of there, yes, but just to go in, if you have enough fuel on board to get yourself home, they will not sell you fuel.

Mr. Wyatt. They will not sell us fuel?

Mr. Zimmerman. No, sir.

Mr. Wyatt. And this is why they are holding out, I suspect, making it abundantly clear that they would be more than happy to sell you fuel, I suspect, if you sell part of your boat to them.

Mr. Herndon. Give them 51 percent of it.

Mr. Wyatt. Fifty-one percent.

Mr. Zimmerman. The joint venture is you give them 51 percent of your boat and in 5 years you are out of Mexico and they have 100 percent of the boat. I don't consider that very good business. I would let mine rust to the ground first.

Mr. Wyatt. How long has the denial of us shrimping in their waters been in effect?

Mr. Herndon. January.

Mr. Clegg. The last fishing year just expired. There is no fishing at all in January of 1980. They had a 5-year program. When they first started, we were allowed so many U.S. permits, and each year the number of permits decreased, and this past year in 1979, in December the last of the permits expired and there is no renewal.

Mr. Zimmerman. Let me add a little bit to this. We have worked with Mexico trying to negotiate through the State Department numerous times. Their scientists admit they have a surplus. They admit they have a surplus. Their fishery people deny us and say, "No, we don't have," and shut us off. That is the way our 200-mile law reads, and theirs reads the same. If there is a surplus, they are supposed to let us back in there. Their scientists admit there is, and they won't let us come.

Mr. Herndon. You see, Mr. Wyatt, another thing on that. We have contended all the time there is a surplus of some 8 to 10 million pounds of shrimp off the Mexican coast that they are not able to utilize. They said they would build up their fleet. In fact, I think the U.S. loaned them some money to do it here a while back so that they could utilize that shrimp. They said they were going to bring boats from the west coast of Mexico over to catch shrimp, but to date they have not, and since shrimp is an annual cycle, many are still being lost and they won't allow us to catch them.

The irony of this other thing is, the question was asked in March when we were up here at another meeting, what would happen to the U.S. shrimp industry if we cannot catch this resource. Our own 200-mile-limit law would enable these same Mexicans to buy a license to catch our resource. So if our shrimp crop builds up and we go broke, they can come in, buy a license and fish in our waters, next to our shores, take back the catch and process it in Mexico, and then bring it back here duty free. This is the reason we are up here trying to figure out where our system went wrong, and why it is so fashionable to keep helping these foreign competitors do this.

I was taught back on the farm years ago if there was a weed in your garden, you didn't water it; you chopped it out.

Mr. WYATT. I got the impression from one of your answers a moment ago to Mr. Forsythe that overfishing may or may not be a problem, but that the fact that you can't shrimp in Mexican waters is not a major problem to you. Is that a correct assumption to make, the fact that you can't go into Mexican waters and shrimp is not part of your problem?

Mr. JACKSON. I will try to answer that. I think you were probably alluding to some testimony that I submitted earlier. The main problem we have is fuel, and I said that earlier, and as Mr. Clegg said a minute ago, the gradual phaseout of shrimping in Mexican waters has been going on for several years.

You take 1978 for instance. We had a relatively banner year in 1978, and really not that many American boats in Mexican water that year. But at the same time we had a reasonable cost of fuel. I don't really think that the fact that we cannot fish in Mexican waters is the primary concern here. The cost of fuel and depressed market due to the cost differential of imported fish.

Mr. COLLINS. Mr. Wyatt, we are sitting there in Brownsville, Tex., right at the bottom of the totem pole. The only place we can go is north, which wastes a lot of fuel, by going to the northern fishing grounds in Louisiana and Texas. The fishing fleet used to be in Mexican waters. We also know that there is a surplus there. The last time we went and met with the Mexicans and negotiated, they admitted right off the bat that there was a surplus, they told us we weren't going to fish it. The reason for this is they did not want to go through the Bentson amendment. They were negotiating in good faith and told us they weren't going to let us. It was just a show.

Mr. WYATT. Would your boats be in the water today if you could fish in Mexico?

Mr. COLLINS. I assume they would.

Mr. WYATT. They would not be tied up?

Mr. COLLINS. No.

Mr. ZIMMERMAN. The Mexican time, as far as we are concerned, is the winter months. During our off season that is when we would want to fish. Inside 12 miles you can catch shrimp off of Mexico the year around. But for us in the winter months, we fish in deeper water and we fish in grounds they don't know. A lot of their boat captains would like to have us fishing down there so they could follow us, but most of our boats fish in sight of land. We were trying to explain a while ago, our fishermen, we pay a percentage and they are aggressive.

The Mexican fisherman gets so much and that is it. He gets paid a small amount, and they just make so much and they realize it, and they just don't have an incentive. That is the reason why their boats don't produce as well.

Mr. Wyatt. Mr. Clegg, do you have anything to add?

Mr. Clegg. No, not on that. I want to expand on something earlier that Mr. Forsythe was asking about. May I?

Mr. Wyatt. Sure.

Mr. Herndon. Repeating myself, we need some help. We need it badly. Heretofore it has been, as I said, fashionable to help the other parties. This time Americans need it. I am a Baptist deacon, a born-again Christian, but my other cheek is getting awful sore.

Mr. Wyatt. Mr. Clegg.

Mr. Clegg. Mr. Forsythe a while ago asked a question about the imports being down from Mexico. I want to remind him that our storages are now full of shrimp, full of imported shrimp, and if we in the next 2 or 3 months were to eat all this shrimp out, or most of it out, we would still be hurt. We still couldn't go out and produce shrimp and pay the price for fuel that we are paying now.

I don't think the market, if you take that shrimp out of the storages and that shrimp is consumed, I don't think that cutting the supply down, which should help the price somewhat, I still don't think it will help it all that much that we could operate at a profit. In other words, marketing is not the primary problem. It is fuel.

Mr. Wyatt. However, although fuel is the primary problem, you still are faced with some most uncompetitive factors, and that is that you can't go into the Mexican water, which then increases the amount of fishing and decreases your catch per boat in American waters, and then we are compounding that by continuing to give loans, for instance, and I guess attempt to develop an industry which is in this country right now overly utilized. Would you say that is correct?

Mr. Clegg. And to go a little further, on the marketplace we are competing with these foreign shrimp that were produced with this cheaper fuel. This is Mexican shrimp in our storages now that we are competing against. OK, we have a drop in consumption, because of the national economy, so naturally the price comes down. They can go ahead and afford to go ahead and drop the price, because they have got $1.40, or whatever the quotation was that somebody said, they have got that ax on us to start with just in fuel difference.

Mr. Wyatt. Have they dropped the price?

Mr. Clegg. Oh, yes.

Mr. Herndon. They dropped the price about $1 a pound.

Mr. Clegg. In my written testimony I think the price differential was $1.47 a pound for the 15 to 20 size on March 31 of this year against March 31 of last year.

Mr. WYATT. My final question is this. Mr. Clegg, I notice you also recommended a national marketing system. Do you think that we could significantly expand the market for shrimp with that kind of a program and approach?

Mr. CLEGG. Mr. Wyatt, in past years when industry has gone out and used our own money and some help too, I think we have used Federal moneys in the past and State moneys down in Texas, when we have gone out and advertised our product, carried out an advertising campaign, it has helped, and I think that everything I read, that this country doesn't consume a whole lot of fishery products, and that if we had an all-out campaign with the goal to raise the consumption of fishery products in this country, the whole U.S. fishing industry will benefit.

Mr. WYATT. Would you be willing to support yourself with some kind of a required fee in that kind of marketing approach on the part of the Federal Government?

Mr. CLEGG. You are asking me something that I am going to give you a personal opinion on. I always put my money where my mouth is.

Mr. WYATT. I am well aware of that.

Mr. ZIMMERMAN. We have been over the last several years trying to come up with a shrimp marketing order so we could get everybody involved, and we have really run into closed doors. If we could get everybody to contribute, not just the Texas industry but all States, anybody that is in the shrimp business, we would appreciate it. Every time I see Cotton, Inc., advertising a football game or something else, I just don't understand why we—I don't say we want to spend that kind of money. Maybe we don't have it, but there should be some way our industry can do it.

Mr. JACKSON. In talking about marketing of shrimp, I would like to carry it one step further into other species and we talked earlier about the alternative fishing, and primarily, we are talking about swordfish and tuna. Swordfish in particular is a very regionalized market, primarily on the east coast and upper east coast, and I believe it is just about all sold on the fresh market.

I would think you probably wouldn't have 1 person in 10 or maybe 20 in the South that even knows what swordfish tastes like, and it is a shame, because the southern palate is so used to fried fish and fried shrimp and crawfish, or whatever, that we in the South, the consumer I mean, does not have the attitude or awareness of different kinds of seafood that, say, the West and the east coast have, and we would need some help I think in just educating the consumer that there are a lot of fish out there that are good to eat.

Mr. BREAUX. The Chair would like to particularly thank the panel for their testimony this morning. You brought up the question of duties on imported shrimp. Obviously, that is a suggestion that this committee would not have jurisdiction over in Congress. It would be the tax-writing committee, Ways and Means. It is something that should be and probably will be considered.

Saltonstall-Kennedy funds could be used for a marketing type of project to make consumers more aware of the benefits of a particular species. That is something we could explore.

Your other suggestions I think are very helpful and something that we will take into consideration. We do not intend to delay acting on the legislation. We intend to move as rapidly as we can, in keeping with building up a good record, so I thank you and appreciate your testimony and look forward to working with you in the future on this problem.

The Chair will note that it is 12 and the House is going into session and we have some committee bills that will be up as a first order of business this afternoon, so we are going to have to take a break until 2 o'clock this afternoon, at which time we will take the remaining three or four panels that we have. So the committee will be in recess until 2 o'clock this afternoon.

[Whereupon, at 12 noon, the subcommittee recessed to 2 p.m. of the same day.]

AFTERNOON SESSION

Mr. **Breaux**. The subcommittee will please come to order.

This afternoon we would like to welcome as our first panel of witnesses, Ms. Miriam Chapman and Mr. Greg Chatman. We welcome you and ask you to take your places at the witness table.

Would either one of you like to go first? We have no order of preference.

NORTHWEST PANEL: MIRIAM CHAPMAN, REPRESENTATIVE, FISHERMEN AUXILIARY GROUP; GREG CHATMAN, REPRESENTATIVE, FISH FORCE

Ms. **Chapman**. I will be first. My name is Miriam Chapman. I am the owner and I work on a fishing boat on the west coast. I would like to request that my entire testimony be put in the record, but in the interests of brevity I would like to summarize in my own words.

Mr. **Breaux**. That will be fine.

[The information follows:]

TESTIMONY OF MIM CHAPMAN

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INTRODUCTION

My name is Mim Chapman. I am a fisherman and am here to speak for myself and for the thousands of other independent fishermen who, like myself, are small businessmen, with our life savings invested in our fishing vessels. A number of southern Oregon fishermen's groups have combined their effforts to send me here to speak for them--Bandon Fishermen's Association, Blue Pacific Fishermen's Association of Winchester Bay, Brookings Fishermen's Association, and the Fishermen's Support Alliance of Bandon, with a total membership of over 1,000 fishermen, and FISH FORCE, which now has over 15,000 supporters. As a member of the coast-wide Fishermen's Wives Coalition, representing ports from Seattle to San Diego, I am also speaking on behalf of their policy stance on the bill, adopted at an April 18 meeting in Winchester Bay, Oregon.

We strongly support the overall goals of this fine piece of legislation. We see it as an attempt to put teeth into the FCMA and assure that the original intent of Congress, the development and enhancement of a strong U.S. fishing industry utilizing the vast resources of our oceans for the greatest good of our country, is carried out and made into a reality.

CURRENT PROBLEMS OF THE FISHING INDUSTRY

General Economic Problems

Fishermen who worked for the passage of the FCMA believed it would enable the U.S. fishing industry to grow and expand into new fisheries, unmolested by foreign fleets. Its passage hailed a new era of strength and growth for both fishermen and processors. Three years later, the results are disappointing, at best. NEFCO, the Chrysler of the seafood processing industry, went bankrupt recently. Despite whatever its internal problems might have been, NEFCO was one of the most progressive U.S. processors, and it had led the movement into the processing of new, underutilized species. Reports show that other processors who are trying to break into the underutilized species industry in competition with totally subsidized foreign off-shore processing ventures are in only slightly better financial shape.

As for the harvesting sector of the industry, Production Credit Association, the primary financer of west coast commercial fishing vessels, reports that approximately 25% of its fishing vessels operating in Washington, Oregon, and California waters are now behind in their boat payments. The two PCA loan offices which handle the largest quantity of commercial fishing loans both predict that due to the severely abbreviated salmon season, the virtual collapse of the new black cod industry, and generally poor market conditions, 60 to 75% of their aquatic loans will be in arrears, with 25% of them in danger of default, by late fall 1980!

Incidentally, the old and generally passé image of the salty old fisherman drinking up his profits at the local bar has no influence on these figures, since most PCA loans are set up with a specified percentage of the gross taken off the top of each fish delivery. Thus these figures are a valid indicator of the industry's declining financial health, not of poor bill-paying habits of fishermen themselves.

Traditionally, American processors and therefore, to a large extent, American fishermen have concentrated on the high-priced, high profit "specialty market"--crab, lobster, salmon, tuna, etc.--ignoring many plentiful but less expensive species. Vast quantities of these "underutilized" fish (3.3 billion pounds last year, according to conservative National Marine Fisheries Services estimates) are given away to foreign fishermen and processors who in turn, sell a great deal of it right back to the U.S! They sell them, for one thing, in the form of frozen block fish for fast food chains and grocery stores. Of the frozen block fish bought by Americans last year, less than half of one percent was caught by American fishermen!

This give-away-and-buy-back maneuver cost the U.S. a 2.8 BILLION dollar trade deficit in fish!

Meanwhile, hundreds of well-equipped American fishing boats sat idle for want of a market.

Given the state of the economy and our dire need to improve our balance of trade, the situation is ludricous! It is imperative--not only for the good of the fishing industry but also for the benefit of the American consumer and the entire economy--for the American fishing industry to move into the area of harvesting, processing, and marketing this vast natural resource rather than giving it away to foreign vessels at the cost of our own industry and market.

Huge amounts of American gear damage or loss suffered at the hands of irresponsible foreign vessels; lack of U.S. enforcement or even accurate data gathering from these foreign vessels operating in our waters; and the "incidental" and illegal catches of salmon, black cod, perch, and other fish by foreign fishermen who endanger our ocean stock and compete with American fishermen on the world market--all add to the severity of the problem.

The West Coast Black Cod Industry as a Case in Point

My own situation is a concrete example of the problem facing the whole industry. My boat, a 58-foot steel ex-tuna boat, was one of the 110 vessels that responded to the promise of a new fishery, and regeared to fish black cod in Oregon waters last year. The situation we faced is the situation every U.S. fisherman or processor faces when trying to break into a new fishery in competition with foreign fishing operations using U.S. permits to fish in the same area or for the same species of fish.

PCA, which financed my boat, strongly encouraged me to regear for black cod since the salmon fishery was already overcrowded and licenses expensive or unavailable; the albacore season had been poor; and predicted crab prices were low due to consumer resistance to traditionally high-priced seafoods. The exit of the Korean black cod fishermen promised to open a new fishery to Americans eager to start harvesting one of America's "underutilized species." Processors like Bumble Bee Seafoods in Astoria were so eager to lure boats into the new fishery that they made gear loans readily available to boats that would sign contracts to deliver black cod exclusively to it.

In August 1979, I signed a contract with Bumble Bee that guaranteed me a minimum price of 57 cents a pound for large, 41 cents for mediums, and 31 cents for smalls, through March 15, 1980, and I began pot-fishing for black cod off Cape Blanco in southern Oregon.

All summer, prices had been high (67/55/45 cents when I started), fish were plentiful, and we black codders were being billed as the new top-money fishermen on the coast. The collapse of this market is discussed in greater detail later.

Gear Losses

Then disaster struck in the form of the huge Russian and Polish fishing vessels with permits to drag for hake off the Oregon coast, permits that included large "incidental catch" quotas of black cod. American black cot pot fishermen working in the same areas as the foreign draggers started finding their gear was disappearing almost as fast as they could set it and radio the position of their buoys to the Coast Guard, in compliance with NMFS's gear location reporting system. During September and October when Soviet vessels were dragging all around me, I personally lost $40,000 worth of gear to them!

Oregon fishermen lost over half a million dollars worth of black cod gear during the time the foreign vessels were present in our waters. Losses virtually disappeared when the foreign vessels left.

Incidental Foreign Catches

Although the Soviets did not fill their quotas of the supposed target species, hake, they were finally ordered to leave because they had substantially exceeded their "incidental catch" allotment of black cod--even after NMFS had added Mexico's black cod quota to the Soviets'! Needless to say, this generosity on the part of NMFS was not well received by the fledgling U.S. black cod fishermen forced to share their prime fishing grounds with the totally subsidized 400- to 500-foot Soviet vessels! Nor did it please the U.S. salmon fishermen, who watched the Soviets tow back and forth off the mouths of salmon rivers where the water was thick with salmon, while the American salmon fleet was tied up because of season closures!

The Gear Loss Program

Senator Packwood's gear loss program was intended to ease the effects of this situation, and was an attempt on the part of the Senate to provide some assistance to fishermen who were screaming for help.

However, because of poor implementation on the part of NMFS, complex reporting procedures, and long processing periods, it has done little to help--and help in time to save the fishermen financially. It took me nearly 200 hours to complete my own gear loss report, and I have had a lot of experience filling out forms! When the settlement came in late January (four months after the loss of the gear), it was too late to do any good as far as gear replacement went. The money covers only the depreciated cost of the gear itself, with no recompense for down time. Based on the pot production of my remaining gear, I calculate that during the months I waited for settlement, I would have caught $57,000 worth of fish in my $40,000 worth of lost pots. For the total $97,000 I finally receive $31,000 from NMFS, leaving me still in debt for the original gear!

So my personal brush with the foreign fishermen cost me $66,000. Some fishermen who filed as early as September, 1979, have still not received their gear loss money. Many more, discouraged by the complex, time-consuming reporting procedures and the slowness of the NMFS responses, just ate their losses and didn't even attempt to collect any gear settlement.

The Japanese-Controlled World Market

While I was struggling to scratch out an existence with only 60 of my original 200 pots, and calling NMFS weekly begging for a settlement of my gear loss claim so I could replace my lost pots, the Japanese vessels with U.S. black cod permits in Alaska were steaming home with their catches of Alaskan black cod. When they arrived there, they flooded the Japanese-controlled world market with these U.S. fish. Japan then broke its purchase contracts with U.S. processors. Bumble Bee in turn broke its contract with us fishermen, dropping the price to a below-contract minimum of 45/31/21 in late November. In December, they completely stopped black cod purchases.

Through the winter and early spring, we tied up our boats and hoped for the market to return. Of the 110 vessels that fished for black cod in Oregon last year, to my knowledge only 2 now have a market--at the subsistence price of 30/20/10. With a 200,000 dollar boat tied to the dock for want of a market, my total income for the first five months of 1980 has been about $850, derived from a few days of substitute teaching and a stint of work for the census. Meanwhile, my boat payments are five months in arrears, and maintenance and insurance keeps driving me further in debt.

The Outlook for the Future

What is the future of the black cod industry? That's a major topic of discussion in every dock coffee shop on the Oregon coast. We know that the world demand is there. American fishermen have demonstrated their ability to adapt quickly to a new fishery and to efficiently harvest this valuable resource. However, as gear losses and foreign competition, both on the fishing grounds and in the world market, make it economically unfeasible for us to fish for black cod, we are forced to return to traditional fisheries, the best of which--salmon, halibut, Alaskan crab--already have severe catch limits, season closings, and limited licenses available. Once again, NMFS may declare that black cod off the Oregon coast are not being totally harvested by American fishermen and therefore should be allocated to foreign fishermen. Why should they buy processed fish from companies like Bumble Bee if they can get the fish for free from the U.S. government!

Hopefully, the passage of H.R. 7039 will insure that the fate of the black cod industry will not be repeated throughout the fishing industry. I have added five newspaper clippings relating to the above-stated problems, and request that they be included in the record along with my prepared testimony.

DISCUSSION OF THE BILL

Section 301--Phase Out of Foreign Fishing

We strongly support the phase out of foreign fishing, and consider it the single most important aspect of this bill. However, I would like to quote from the Fishermen's Wives Coalition policy statement on this item: "We agree with a phase out of the foreign fishing fleet. However, we feel that the suggested schedule will phase us out before it phases them out! We would suggest the following:

1981 - 75%

1982 - 50%

1983 - 25%

1984 - 0

We totally disagree with deferrals. We feel that if there are excess fish, they should be left for U.S. fishermen, "for tomorrow."

The fishermen I represent totally agree with the stance of the Fishermen's Wives Coalition. In our opinion, a deferral option makes the entire phase out meaningless. It leaves the fishery industry in a Catch 22 situation. Until U.S. fishermen and processors totally harvest our "underutilized species," these fish are to be given to foreign fishermen. Yet a U.S. investor is hard pressed to gamble on trying to enter a new fishery in competition with a partially or totally subsidized foreign operation already having a corner on that market and that product. If we are to reclaim this lost resource, we must give notice to foreign operations that their days in our waters are numbered, thus increasing U.S. investor confidence at the same time the CCF and Title XI provisions of the bill improve the financial position of Americans interested in moving into the business of harvesting, processing, and marketing the underutilized species in our waters. An absolute phase-out schedule both encourages investment in these new fisheries and helps assure that future ventures into underutilized species will not meet with the fate of last year's west coast black cod industry, in which fishermen and processors invested millions of dollars re-equipping for a new fishery, only to have vast amounts of fishing gear destroyed by foreign fishermen working in the same area, and the market closed by foreign operations fishing for the same species in our own waters.

We are also concerned with the future of American processors. Joint ventures were billed as a temporary measure to provide markets for American fishermen. However, allowing them to continue indefinitely puts American processors in the same bind as American fishermen-unable to break into a foreign-dominated and partially or totally subsidized industry. Along with a phase out of foreign fishing, we recommend a phase out of foreign processing. Off-shore foreign processors provide no American jobs, contribute nothing to the coastal economy, and are a potential danger to the very fishermen who fish for them. How can we negotiate prices with a buyer who can ultimately threaten to simply float elsewhere? We therefore recommend the addition of an amendment which would give a definite cut-off date for a foreign processing venture, thus encouraging American processors to invest in our underutilized species.

Section 311--Observer Program

We also strongly support a 100 percent observer program, the cost of which would be borne by foreign fishermen. Statistics received from foreign vessels indicate gross discrepancies between actual and reported catches. Strict control is exercised upon domestic fishermen, and rightly so, for without accurate data, and catch limitations, the resource is endangered. It is imperative that this same strict enforcement of limits, both of target species and of the so-called "incidental catches" of foreign vessels be facilitated.

A 100 percent observer platform should also help alleviate the severe gear loss problems reported by American fishermen. Irresponsible foreign vessels seemed to totally disregard the Coast Guard's reports of domestic gear locations. In fact, several fishermen experimented with reporting some of the gear locations to the Coast Guard, and not reporting other gear. (The Coast Guard radios American gear locations to foreign vessels opearting within an area. By law, foreign vessels are not to fish within 2 miles of these reported gear locations.) They found that they lost less gear if they did not report its location! This indicates a possible intentional destruction of American gear by foreign fishermen. A 100 percent observer program not only would protect our fish stock from the foreign overfishing which virtually destroyed the east coast haddock and other species, but would also help enforce the gear avoidance law, protecting U.S. fishermen from thousands of dollars of losses annually.

Section 201--Capital Construction Fund

We strongly support expanding Title XI and CCF programs to include used vessels and processing facilities. However, we have a real fear that providing a cross-over of processing-derived funds for purchasing vessels will work against the long-term good of the industry. "For Sale" signs are sprouting up on fishing boats like crocuses in spring! If PCA's dismal estimates are accurate, defaults will be widespread and vessel prices at an all-time low. The cross-over provision could encourage processors looking for quick profits to invest their profits in buying up a fleet of vessels of their own, instead of in expanding into new processing areas. This has two disastrous effects on the independent fisherman. The most immediate is the tightening of an already slim market. All up and down the cost boats are tied up for want of a market. Processors who own their own boats naturally provide these boats with a market at the expense of independent fishermen who own their own boats. A vast increase in the number of processor-owned vessels would sound the death knell for privately owned fishing vessels unless it is accompanied by an equally vast expansion of the processing industry itself. We desperately need the processing industry to invest its CCF funds in expanded processing facilities, especially into under-utilized species, to catch up with the harvesting ability already existing in the U.S. fishing industry.

Section 212--Fisheries Loan Fund

We strongly support the reactivation of the loan funds in the Fish and Wildlife Act of 1956 to help boat owners in danger of default. This could well be the stop-gap measure that would help fishermen survive until U.S. processors have utilized the financial advantages made available through CCF and Title XI to expand and provide new markets for them. However, we would like to see this emergency relief made equally available to any commercial fisherman who derives his primary livelihood from fishing and who is in danger of default, no matter what his financing is. Production Credit Association has been the lifeblood of the fishing industry, showing responsiveness to its unique needs. To allow this institution to suffer the brunt of the industry's defaults while these funds protect government Title XI loans would be a severe blow to the small fisherman's greatest financial ally. We believe this section should be amended to omit the priority given vessels already having government guarantees, as the priority severely discriminates against the thousands of fishermen who are financed by PCA and other financial institutions.

CONCLUSION

If our country is to survive economically and retain its position in the world market, we must do away with our Santa Claus foreign policy and reclaim our vast natural resources for the benefit of our own citizens and our own economic viability. The OPEC countries have a resource the world needs and they have used this resource to gain economic and political strength in the world community. We could perhaps learn a lesson from their resources policy.

We have vast renewable resources of fish, grain, timber, for example, which could be similarly used as a tool for the advancement of our national interests. However, instead of using these resources to benefit our shaky economy, we sell our grain overseas for less than the farmer pays for fuel to produce it; we export logs while our own mills close down for want of logs, thus putting thousands of American workers out of jobs; we give fish away, depriving American fishermen of their own place in the world market. We are not isolationists--we believe open trade is an asset to the health of our country. But it is time to start operating from a position of strength. In our opinion, H.R. 7039 is a sensible and courageous step toward making the fullest use of a valuable resource, assuring the survival of a vital American industry, and preserving a unique way of life for future generations of Americans.

WILLAMETTE VALLEY OBSERVER JANUARY 25, 1980

Upfront

The Foreign Fish Flight

As far as most landlubbers are probably concerned, the institution in 1977 of the 200-mile U.S. Fisheries Conservation Zone put an end to the pillage of our offshore fisheries by foreign fleets. But a group of Oregon commercial fishers is spreading the word that the situation is worse now than before the "200-mile limit" was imposed and that if something isn't done—and soon—the entire seafood resource along America's West Coast is threatened with extinction.

The new group is called FISH FORCE, which is a rough acronym for Fisherman Intent on Sending Home Foreign Operations Raking our Resources and Controlling our Economy. In less than a month the group has attracted hundreds of concerned fishers and other citizens to a series of town meetings in harbor communities up and down the central and southern Oregon Coast. For the moment, FISH FORCE has a single objective: rallying support within and without the fishing community for HR 5946, a bill introduced in the House of Representatives late last year by U.S. Rep. Jim Weaver which would—among other things—establish a 40-mile zone in which American fishing vessels would have almost exclusive rights to fish.

Mim Chapman, a black-cod boat owner working out of Bandon, is chairing the 15-member steering committee of FISH FORCE which is spearheading the public information drive. Chapman says she lost over $40,000 in fishing gear last year when her long lines of cod pots were destroyed by a trolling foreign vessel. In addition, she says that the loss cost her nearly that much in unrealized profits.

At the heart of the problem, says Chapman, is the total inability of the current 200-mile limit to control violations by the Russian, Polish and other ships licensed to fish there.

Commercial fishers like this Coos Bay man are quickly and angrily rallying behind a bill virtually banning foreign fishing within 40 miles of the coast.

"Before the 200-mile limit," says Bob Stevenson, a Charleston salmon fisherman and another member of the FISH FORCE 15, "the Russians had to stay outside the 12-mile limit. Now we license them, and they can come in as close as three miles." Stevenson also points to numerous other failures in the implementation of the conservation zone, including:

- failure of undertrained and inexperienced American "observers" to successfully monitor catches on foreign vessels on even the small percentage of ships on which they are actually present. Stevenson says one observer told him that he spent a whole month on a Russian ship and physically witnessed only two or three nets being hauled in.
- inadequate and ineffective use of the right to surprise inspections of foreign vessels. He remembers picking up one radio broadcast where the inspection boat asked permission to board and was told by the foreign ship it would take 45 minutes to an hour to get ready for inspection.
- difficulty and red tape in getting reimbursed for gear lost to Russian trawlers. It took Chapman months of putting constant pressure on the National Marine Fisheries Service (NFMS) to get her claim processed, and then she received less than half of what she estimates her actual losses to be. Chapman says that while dozens of boats have lost gear, NMFS has paid claims to only two.

Sums up Greg Chatman, Chapman's skipper until he took time off to work with FISH FORCE, "The bill's been a complete failure."

Of course for the moment at least Russian vessels are not causing problems for Oregon fishers. In the wake of the invasion of Afghanistan, Russian fishing privileges off the coast have been suspended by President Carter. But Chatman points out ships from other nations are still present, and there's no assurance that the sanction against the Russians won't be withdrawn tomorrow. Chatman says action on HR 5946 is necessary to create a permanent atmosphere in which private American vessels won't be forever trapped in the vast nets of the government-subsidized foreign fishing ships.

In addition to setting up the 40-mile limit (foreign ships working in conjunction with American vessels would be the only non-U.S. ships allowed in those waters), Weaver is also proposing placing observers and observer assistants on every foreign vessel operating in the 200-mile zone, with observer's salaries to be paid from fees collected in licensing of those foreign ships.

FISH FORCE is currently raising money to cover publications costs and to send a fisher-representative to Washington, D.C., to testify on the bill's behalf. Chapman says the next step in the crusade is to bring the issue inland, to the state's population centers. That effort gets underway this Sunday in Eugene with a benefit seafood sale outside the flea market at the Lane County Fairgrounds. FISH FORCE supporters will be selling donated crab, black cod and perhaps other fish from 10 a.m. to 4 p.m.

More information on FISH FORCE can be obtained from the group's Bandon headquarters, P.O. Box 314, Bandon, OR 97411 or by calling Mim Chapman at 1-347-9727.

Steve Collier

NATIONAL FISHERMAN FEBRUARY 1980

Lost-Gear Program Gets Off To A Slow Start

Year one of the lost-gear reimbursement program under the Fishermen's Protective Act has not gone well, but National Marine Fisheries Service officials are confident things will improve.

Such improvement will become especially important if the Coast Guard is allowed to go ahead with its announced plans to withdraw from its accustomed role as "policeman" in conflicts arising over fixed gear (see related story below).

"We've had some growing pains," says Kathryn Hensley, the NMFS financial assistance officer who coordinates the program out of her Washington office.

Ironically, the troubles weren't financial. There was little trouble collecting some $1.5 million in assessments from foreign fishermen to begin the permanent fishermen's protective fund which will be replenished by the foreign fleet in the future.

There were troubles organizing a staff to handle the program, and unclear language in the program's preliminary regulations made decision making difficult, Hensley said.

Of approximately 70 claims made for compensation under the program, only six were paid off for losses reported between January and early December, she said.

Despite requirements that actions be taken quickly and determinations be made within 60 days of receipt of a claim, some cases from the spring were still unresolved in early December.

"It's the kind of bureaucratic junk we've come to expect," said one Alaska fisherman who still has hopes of collecting for some lost crab pots and asked not to be identified.

Results in the black cod trap fishery off the Pacific Coast and among lobstermen and gillnetters on the Atlantic is much the same.

"I saw the first notice of the thing in the paper and thought it was great," Gloucester, Mass., gillnetter Thomas Morse said of the announcement of availability of funds last winter.

Rushing to apply within the 60-day limit from the time of his loss, Morse and partner Arthur Davy then experienced several delays, most explained away as lack of staff or a backlog of cases.

"I can't deny there have been problems, but I hope people don't give up on the program," Hensley said. "We have a staff now and I'm confident things will be smoother soon."

She is also hoping that an amendment to the act filed by Sen. Bob Packwood (R-Ore.) will extend the deadline for claiming losses during all of 1979 into early 1980. "That would solve a lot of problems," she said. "We're holding applications that came in late in hopes this will occur."

Another problem area apparently eliminated is determination of an "act of God," described in the regulations basically as extreme weather conditions.

To determine what these conditions are at any given time in any given place, NMFS will rely on the Environmental Data Service and the National Weather Service. The Environmental Data Service has records of weather conditions throughout the country that go back decades in many areas. Hensley said these figures can be used to determine the mean conditions for a given place and time while the National Weather Service can be relied upon to report the conditions at the time the claim occurred.

From there simple computation is all that is needed to determine if conditions are severe enough to qualify as an "act of God."

Once her staff is trained, Hensley will begin a series of workshops in coastal areas to further familiarize people with the program. "I can't tell you it is working smoothly now," she said. "But I believe it will."

—T. Sullivan

(I+) Oregon Journal, February 4, 1980

Foreign fleets hit fishermen

SOUNDING OFF — Commercial fishermen drink coffee in a waterfront cafe at Charleston and sound off about foreign fishing fleets off the coast. Offering their opinions on the state of their industry are, from left, Paul Douglas, Robert Wells, William Brooks and Buz Broughton.

By [illegible]
Journal Staff Writer

CHARLESTON — President Carter's ban of Russian fishing vessels from American waters doesn't impress the fishermen around Coos Bay.

That's partly because there aren't any Russians around, anyway.

And it's partly because of a general feeling that if it isn't the Russians hogging the fish and tearing up American lines and gear, it'll be the Poles or Bulgarians or the East Germans or some other foreigners.

"The Poles have 18 boats in here now," said Jerry Hazel, a Charleston bottom fisherman. "We see 'em all the time outside the 12-mile limit.

"Now they want to put in 48. They're a satellite of Russia, so you can see what they're doing," Hazel concluded.

The Russians and others are licensed by the federal government to fish for hake in season, which generally runs from June to October. That's why they aren't here now.

President Carter ran the Russians off after their Christmas Day invasion of Afghanistan.

Licensing came about after Congress established a 200-mile fisheries conservation zone off American shores, but fishermen here claim it didn't do any good.

"The 200-mile zone never did a thing," said Steve Powelson, Charleston, a salmon fisherman. "It only regulated them more, and us too."

Most fishermen here — perhaps all — want a 40-mile bill supported by Oregon's two coast-district congressmen, Reps. Jim Weaver and Les AuCoin. It would exclude, not limit, foreign vessels and, as Powelson said, "get the foreign fleets off the black cod grounds."

Here is where the trouble lies. Foreign fleets, notably Russian, search for hake in the same grounds and tear up American cod gear as they go charging through.

Robert Wells, a Los Angeles smog refugee, said he lost four sets of gear the last time out — gear being cage-like pots that rest on the ocean bottom and are joined on lines 11,000 to 12,000 feet long.

"I lost $4,800 worth of gear in the last two months," Wells said.

Paul Douglas, from Seattle, estimated his gear loss — pots, lines, buoys, anchors — at $10,000 last year.

"They storm right through your gear out there," he said. The National Marine Fisheries Service broadcasts locations of fishermen's gear twice a day, "but they (the Russians) don't seem to get the message."

Douglas and a crewman, William Brooks, were busy docking the big square pots they had brought in from the ocean floor because Douglas was getting out of the black cod business. The Russians and the price were too much.

Douglas was a stock broker in Seattle and New York who bolted the business world for the freedom of the sea and its peculiar way of life.

Even so, he brought his knowledge of economics with him, and that explains lucidly what's wrong with the black cod business — why a price of 48 cents a pound last April was down to 18 cents last week.

Japanese are heavy users of black cod. They were heavy fishermen until the 200-mile limit was imposed. Now, Americans are doing the Japanese black cod fishing for them; 99 percent of the catch is sold to Japan.

Two economic factors are working against Douglas and his fellow codders. The American dollar is gaining against the Japanese yen; 180 yen to the dollar when Douglas started fishing in April compared with about 252 yen to the dollar last week.

Secondly, there's a glut of salmon (from Alaska's Bristol Bay) on the Japanese market that has driven the price down. Salmon is now competitive with cod, and when there's a choice, the Japanese, like everybody else, prefer salmon.

So Douglas is pulling in his pots and his miles of polypropelene line "because the risk of having $30,000 sitting on the bottom of the ocean is phenomenal."

Trying to make money with salmon is out of the question, Douglas says, and "there's no way to make ends meet at 18 cents" a pound for cod.

He'll try to sell his pots, maybe sell his 60-foot boat, Mermaid, which he bought last year for $100,000 or more specifically for the black cod fishery.

He's talking about going to Alaska in June, to fish for herring and salmon, but he concedes that he may have to abandon his chosen life at sea and go back to stocks and bonds.

"There were 15 or 20 black cod boats out of here last summer," Douglas said, surveying the extensive Charleston boat basin crowded with fishing boats staying in port. "There are five dragging out of here now, and all but two are pulling in."

Wells, the Californian, is another pulling in (or is it pulling out?), but he says he'll stick around "until the price comes back up."

There is no assurance that it will, of course, but he hears "whispering about March." If there's no change, he may try fishing for tuna or salmon.

Wells' experience illustrates how vacillations in prices dictate vagaries of the business. He has fished for both tuna and salmon before.

"But tuna was bad the year before," he said, and last year the government "regulated me right out of the salmon fishery — that's all there was to it."

So he went to black cod, because the price was right. That's all there is to it.

NATIONAL FISHERMAN MARCH 1980

Foreign Quotas May Hamstring Butterfish Sale

(Black Cod)

By Christine Tarasevich

A viable butterfish export market for American fishermen may be strangled before it develops if proposed 1980-81 allocations of butterfish to foreign fleets are made, Point Judith, R.I., fishermen say.

At a hearing Jan. 7 in Galilee, the fishermen voiced strong opposition to the Mid-Atlantic Fishery Management Council's proposal for butterfish. It would give American fishermen an allocation of 7,000 metric tons and foreigners a 4,000 m.t. quota.

Any amount to the foreigners is too much, according to the fishermen, since the only market which can handle the quantities Americans want to land is foreign, and specifically Japan.

"I do not believe there should be a foreign allocation as butterfish has proven to be a marketable species which decreases pressure on the groundfisheries. The foreign export market should be allowed to develop," said fisherman John Tarasevich.

Capt. Richard Champlin agreed: "You say one of your objectives is to promote the growth of the U.S. butterfish export industry. The reason the Japanese are not buying butterfish from us is that they can catch their own," Champlin told the hearing officials.

Champlin was referring to the fact that last year the Point Judith Fishermen's Cooperative had a guaranteed contract for butterfish with the Japanese, the only major buyers. This year's contract was not renewed, supposedly, explained Pt. Judith Co-op officials, due to problems in the quality of the fish.

Pt. Judith Co-op President Jake Dykstra agreed with Champlin. "All of us believe the Japs are playing games. We think the amount made to foreigners should be substantially reduced. . . These numbers are not what we want. However, we'd rather have this than a NMFS plan," he said.

John Santiago, owner of the Pier III fish processing plant in Galilee, defended the quality of the exports. "We were new to it last year and the first three of the 17 containers we shipped had problems with poor quality, although they were not bait. We did have another order before the season ended," he explained. Santiago went on to say that this year the Japanese came back after the Mid-Atlantic management plan was proposed with a price "we couldn't live with" so no contract was struck.

In defense of the foreign allocation, the Mid-Atlantic representatives at the hearing stated that the council originally had allocated all the fish to American fishermen in order to encourage development of an export market. However, the Dept. of Commerce had returned the plan, saying that there was no historical basis for claims that American fishermen could harvest the entire 14,000 m.t. the council had allocated to them.

Dykstra and others at the hearing refuted the claim that Americans could not catch that amount. "This year the fleet hasn't stayed on top of the stock because there is no market. . . But, yes, the fleet can produce that much fish if they stay with it," Dykstra said. The co-op president explained that the guaranteed price for butterfish last year had resulted in much of the Pt. Judith fleet working the butterfish stock together. Unlike other fisheries in which captains would keep their fishing locations secret, the boats moved with the stock of fish — an action which saved fuel — and freely shared information. "There's no question that the capacity's there," Dykstra affirmed.

Also surfacing was the concern by the fishermen that with no Japanese market, American fishermen would not be able to catch all their allocation due to a lack of markets. Inability to harvest the full allocation would lead to reallocation of the surplus to the foreign fleets.

According to Capt. Charles Follett, this unused allocation would doom us completely. "We'll be back where we were before with the foreigners raping our shores. I honestly believe that the way it looks is that the government is willing to sell us down the road. They don't have the will to protect us the way they should at this period."

NATIONAL FISHERMAN MARCH 1979

MAIL BUOY

Atlantic Swordfisherman Witnesses The Effects Of Japanese Longlining

To the Editor:

I have enclosed a copy of my letter to Mr. Terry Leitzell. The situation with the Japanese longliners is quite difficult and it is particularly galling since we are now facing quotas. I hope you will review this situation and do what you can to help.

Dear Mr. Leitzell:

I am a commercial swordfisherman. I have been involved in the swordfish fishery since 1961. This year, through the National Marine Fisheries Service's Fishing Vessel Obligation Guarantee Program, I was able to purchase a new 80' combination vessel, and am currently fishing full time for swordfish.

This letter concerns the large Japanese longline fleet now operating off our coast. The presence of this fleet is causing severe problems for domestic longliners. Some of these problems (such as gear conflicts) are clear-cut and indisputable. Other problems (such as pressure on stocks) are harder to prove or assess, but certainly exist to some extent.

Gear conflicts have become so intense in some areas that American fishermen are being forced to leave or avoid their traditional fishing grounds.

During our last trip in November, for example, we were fishing between Lydonia and Hydrographic canyons in 250 to 1,000 fathoms. There were six to eight American boats in the general area and, as far as we could tell, there were between eight and 18 Japanese longliners.

The American boats maintain radio contact with each other and, prior to making their sets, agree on who will set where. American boats set between 15 and 30 miles of gear. Every mile, a radar reflector is attached to the main line. As the gear is set, the captains are able to see these reflectors on their radars and thereby maintain adequate separation. Thus, by cooperative radio communications and by judicious use of radar reflectors, domestic fishermen avoid getting snarled together.

The Japanese, on the other hand, either do not listen on the standard international call and distress radio channels or simply refuse to answer our calls. We have even gone alongside them and signaled with our hands to go to a certain radio channel — all to no avail. Consequently, there is no way to coordinate our longline sets with theirs.

To make matters much worse, the Japanese use no radar reflectors. If their gear is already in the water when we begin to set, there is no way we can see it and avoid it.

Keep in mind that the Japanese are setting 50, 60, 70 miles of gear. They start setting and just disappear over the horizon. —

Their floats are the size of soccer balls and are impossible to see over 100 yards away. And since we usually set at dark or just after, we can't see these floats at all. The inevitable result is tremendous snarls between Japanese and American gear.

Believe me, Mr. Leitzell, longlining is very hard work. But when you start hauling back at 5:00 a.m. and find your gear all snarled up with the Japanese, it's enough to make you want to give up.

During this trip in November, these conflicts were so bad that we had to leave where we usually fish and try to find an area clear of the Japanese. It is hard enough to find a few fish without having to go that one step further and find fish without Japanese.

Spencer Apollonio of the New England Fisheries Management Council has explained to me that it is the position of NMFS and its directors that the Japanese longliners have no adverse effect on the billfish stocks. I cannot tell you how strongly I contest this position. I do not know what you have in the way of observers on these foreign vessels. I do know, however, what I have seen and heard myself, first hand.

One day this past October, I spent about two hours following a Japanese longliner while they were hauling back. During that two-hour period they caught eight swordfish that I could see. We caught 18 fish for the whole day. There is no doubt in my mind that the Japanese on that one boat caught two or three times more swordfish than we did that set.

During the last trip we made in November, which I mentioned earlier, we observed other evidence that the Japanese are catching large numbers of swordfish.

The vast majority of swordfish are dead long before they are hauled in by the boat. And nearly all dead swordfish sink. Only about one fish out of 20 will float after it dies. Yet, during this trip, every American boat found dead, floating swordfish. There could be no question that these were fish that the Japanese had caught and cut off since they inevitably had Japanese hooks and Japanese leaders. (Their gear is distinctively different from ours.)

Since only a small percentage of these "floaters" would come within sight of our boats, and since only a small percentage of cut off fish float, one can only conclude that they are catching a large number of swordfish.

The most discouraging part of the whole situation is that American swordfishermen are now faced with the prospect of quotas and other restrictions in the near future.

I think it is outrageous that one branch of the government, the regional fisheries management councils, is going to limit the taking of swordfish by the U.S. fishermen, while another branch of the government, the National Marine Fisheries Service, not only continues to license Japanese longliners that are, without a doubt, catching thousands and thousands of swordfish, but does so over the objections of those very management councils that regulate us.

Mr. Leitzell, I strongly recommend that you reconsider your position on this matter. There is no doubt in my mind that the Japanese longline fleet operating off our coast catches as many or more swordfish than the entire American fleet.

They fish far more gear than we do. They fish nearly every day. They don't have to go in to unload. They stay here for months at a time. Their boats are much bigger than ours and they can fish in all but the very worst weather. There is absolutely no way they can catch tuna without catching swordfish.

Please consider this letter carefully and let me hear from you. Swordfishing is my livelihood and I have suffered through some very hard times during the last few years. I hope the new 200-mile limit law is going to help us and not the Japanese.

Edward W. Malley III
President
Moby George Inc.
67 Border St.
Scituate, Mass. 02060

Ms. **Chapman**. I am an independent fisherman and a number of west coast fishermen's organizations have combined their efforts to send me here to speak for them also: Brookings, Blue Pacific, which is Winchester Bay, and I am also a member of the Pacific Coast Fisherman's Wives coalition, which represents ports from Seattle to San Diego, and as a member I am speaking on the basis of their policy stands which they adopted, also Bandon Fishermen's Association. We very, very strongly support the overall goals of this piece of legislation.

We see it as an attempt to really speak to the needs that we independent fishermen are facing. Those that worked for the passage of the 200-mile bill, the FCMA, believed that this was going to bring in a whole new era of growth and development within the fishing industry, opening up new waters to us so that we wouldn't be in such severe competition with foreign fishermen. However, just 4 years later the financial statistics coming back from the fishing industry are most disappointing. I am sure almost everyone here is aware that NESCO, New England Seafoods, the Chrysler of the seafoods processing industry, just went bankrupt a few weeks ago.

In doing research for my testimony, I called all of the west coast chapters of Production Credit Association, which is the primary financier of fishing vessels on the west coast. According to their statistics, right now 25 percent of the commercial fishing vessels working in Washington, Oregon, and California waters are behind on their boats payments, and the two loan offices that do the majority of the maritime loans say that by fall they predict this number will be 50 to 75 percent.

Incidentally, a lot of people think that fishermen are pretty lousy bill payers and that we may just go to the dock and tie up and drink away our profits. So that you know that this is an indication of the industry, not of poor bill-paying habits, most Production Credit loans are set up from the inception with a certain percentage of the gross being taken directly off the top of each fish delivery and sent to Production Credit, so it is a very valid indicator of the financial health or lack of health of the industry.

There are, of course, many reasons for these problems that we are facing. One of them is that traditionally American processors—and therefore to a large extent fishermen—have focused on the specialty market, your high-priced seafoods, your lobster, crab, shrimp, and consumer resistance to these high-priced seafoods is naturally driving down to the consumers. At Safeway the other day I saw crab for $9.89 a pound. With the economy as it is, this is a problem.

On the other hand, across the way in the freezer section there were all kinds of Mrs. Paul's fish sticks and frozen fish at very moderate prices. Thus far, our processors have not made the proper inroads into the processing of these low-priced fish. Last year I am sure everyone here is aware of the fact that we gave away to foreigners fishing inside of our 200-mile zone 3.3 billion pounds of these under utilized species of fish.

If we had sold these fish for even 3 cents a pound, it would have brought $100 million into the fishing economy. Sea-grant statistics show that for every $1 of fish product that crosses the dock, $3 in support jobs are created, so there was $400 million of potential American income that we gave away for a mere $10 million in permit fees.

This amount, according to the Coast Guard, didn't even pay for what it cost the Coast Guard for their miniscule enforcement.

Then, of course, the other side of this, a great deal of this product we then buy back in the form of frozen fish products. This giveaway and buyback maneuver cost us a $2.8 billion trade deficit in fish and fish products. Meanwhile, hundreds and thousands of American boats, like the shrimpers that we were just hearing about earlier, tie up to the dock with no market. With the state of the economy as it is, and with our dire need to provide low-cost protein to the American housewife, this is ludicrous. I think it is time for us to move into these species, and recapture this vast resource that we are giving away.

Last year I was a black codder, and so I would like to speak as an example of the problems of the underutilized species. I would like to use the black codder as a case in point. When I bought my boat I had very strong encouragement from Production Credit, who financed it, and from processors who moved into black cod. With the exodus of the Koreans, this was a vast new market opening up to American fishermen. The situation that we faced is sort of a prototype of what may happen to any American, group of American fishermen and processors that want to go into an underutilized species, unless this bill takes effect, which we certainly hope that it will.

I went into black cod fishery along with 109 other boats off the Oregon coast, alone. We regeared at our own personal expense, with no Government money, showing that we are willing to adopt to new species. One of the reasons we did this, many of the traditional fisheries were already overcrowded. Salmon permits are hard to come by. Crab prices due to consumer resistance were predicted to be low, and 110 boats off Oregon regeared to fish for black cod.

Also the prices were high and the fish were plentiful and we were being billed on the west coast as the new high-income fishery for U.S. fishermen. Then we started having some real severe problems. Speaking for my own example, the first situation that I faced was severe gear losses. During the first month and a half that I fished for black cod off the Oregon coast, I lost $40,000 worth of my gear to Soviet vessels who had been given permit to fish for hake in this same area. These Soviet vessels had huge incidental quotas of black cod.

Some people have said, well, are you really sure that Soviets, that this was a foreign problem and not just a matter of domestic draggers and pot fishermen getting in each others way. We maintain very good radio communication with the domestic draggers working in our area. However, our success at being able to contact foreign vessels was quite limited, in other words, nonexistent.

During the time that we were fishing black cod, Oregon fishermen lost over a half million dollars worth of gear during the time the Soviet vessels were fishing all around us. When the Soviet vessels left, our gear losses dropped to almost nothing, and so I believe there is no question that this was definitely a large part of the problem.

As I tell later in my testimony, some fishermen experimented with following the Coast Guard's gear-reporting procedures with some of their gear, and not reporting others of their gear. Accordingly to National Marine Fishery Service, we were to call to the Coast Guard the location of our gear. This gear would then be reported to the foreign vessels, and by law they are to stay 2 miles away from this gear.

What happened was that this was just simply not enforced. Many fishermen found that the gear they didn't report was much safer than the gear they did report, indicating that possibly, you know, we call in and say, "Here is where the black cod are," and they say, "Aha, that must be prime fishing grounds." So we lost tremendous gear.

The second problem that we faced came with the marketplace. The high price for black cod had been as high as 85 cents. When the Japanese long-liners that had U.S. permits to fish for black cod in the Gulf of Alaska went back to Japan with the black cod they had gotten for free, our market price dropped substantially. In November, Bumble Bee, with whom I had a contract, dropped their price below contract minimum. In December they completely quit buying. Right now, of the 110 boats that regeared for black cod off Oregon, to my knoweldge only two are fishing, and at a subsistence price of 30 cents a pound for large, 20 for medium, and 10 for small.

The future of the black cod industry is one of the chief topics of discussion in virtually every coffee shop on the west coast. We tied up our boats when the market ended, sort of sat around and waited to see if it was going to open again. We don't know what is going to happen. One of the things that could very well happen if we can't compete, if we can't go out and risk our gear, try to compete with the world market, on a world market with fish that are given away and flood the market, pretty soon black cod can again be an underutilized species, and National Marine Fishery Services could again offer permits to foreign vessels to come into the Oregon coast and take those black cod.

We can't compete if we are going to lose our gear to foreign vessels and if we have to compete side by side with totally subsidized foreign operations.

Unless this bill is enforced and legislation like this protects us, this is going to be the fate of any American industry that tries to move into an underutilized species in competition with totally subsidized, totally or partially subsidized foreign operations already having a corner on that market.

I would like to briefly discuss a few sections of the bill that the fishermen that I represent have feelings about. Obviously from my preceding testimony, the phaseout of foreign fishing is the most important aspect of the bill to us. We strongly support this. However, I would like to quote from the Fishermen's Wives Coalition policy statement. They have said:

> We agree with the phaseout of the foreign fishing fleet. However, we feel that the suggested schedule will phase us out before it phases them out. We would suggest the following: 1981, 75 percent; 1982, 50 percent, 1983, 25 percent; 1984, zero. We

totally disagree with deferrals. We feel that if there are excess fish, they should be left for U.S. fishermen, for tomorrow.

The fishermen that I represent totally agree with this view. We feel that fishermen are caught in sort of a catch-22 situation. We are entirely financed by private capital. We cannot afford to risk private capital to move in in competition with a totally subsidized foreign fleet. However, until we do catch these fish, they can be given away to foreigners.

The only way that we could really reclaim this lost resource is to give notice to foreign operations that their days in our waters are numbered, thus increasing U.S. investor confidence, at the same time the CCF in title XI programs of the bill improve the financial position of Americans wishing to move into the processing and harvesting of these underutilzied species.

This will also help assure that the fate of the black cod industry will not be repeated by every other industry that tries to move into this resource.

We are also concerned with the future of the American processing industry. I as a fisherman would sure hate to have to negotiate prices with a processing fleet that is entirely foreign, and that is entirely floating. What happens when we come to the negotiation table and they say, "Well, this is all we are going to pay, and if you won't fish for that, we will simply float elsewhere."

I believe that in addition to this, the statistics that I gave earlier on the number of jobs, the amount of money that goes to the shore from every dollar of fishing is very substantial. On the west coast our timber industry is decreasing. We desperately need these shoreside jobs. Foreign processors provide no American jobs. They contribute nothing to the coastal economy and they are a potential danger, as I said before, to the very fishermen who fish for them.

Section 311, the observer program, we strongly support. We feel that this would do a great deal both to protect our ocean stocks and to do away with some of the gear conflicts that American fishermen have had. We have someone on board watching where they are, seeing if they really are in the middle of our gear, I don't think we will have the gear problems. Strict control is exercised on domestic fishermen to preserve our stock, and we totally agree with this. On the other hand, when we have no observers or a very small observer program on foreign vessels, we are left with only a guesstimate of what they are actually taking.

Overfishing on the part of foreigners virtually destroyed some of the east coast stocks. Before it is too late we feel that these enforcements should be put into effect, before they destroy west coast stocks also.

On the Capital Construction Fund, we strongly support extending title II in CCF programs to include used vessels, and especially to include processing facilities. However, a number of the independent fishermen have some fears about the crossover between processing funds and fishing vessels. For sale signs are sprouting up on fishing boats like crocuses in spring.

If Production Credit statistics as to the number of boats in danger of default are accurate, fishing vessels on the west coast are going to be a dime a dozen. Prices are going to be extremely low, and a processor looking for quick profits could move in, use his processing-derived profits to buy up a fleet of fishing vessels of his own, rather than expanding into new processing facilities. This has two effects on the independent fishermen: First, a tightening of the already scarce market. Obviously, if a processor owns his own boats, those boats get first chance at the market.

The more long-term effect is, though, we desperately need the processing industry to catch up with the fishing industry, and so we would like to see these processing-derived funds being reinvested into greater processing facilities, especially into the underutilized species.

Our final comment is regarding the Fisheries Loan Fund. Again, this could well be the stop-gap measure that would help fishermen survive until the processing industry catches up with our ability to catch the fish. However, we would like to see this manufacturing relief being made available to all fishermen who are in danger of default, not only to vessels who already have title XI guarantee funds. The Production Credit Association at least on the west coast has been the lifeblood of the fishing industries. They have been very responsive to the fishermen's needs, and their interest is on a sliding scale.

If they are made to bear the brunt of fishing vessel defaults, not only will it injure all of the fishing vessels who are financed by them, but we feel that it would severely discriminate against the thousands of fishermen who are financed by PCA and other financial institutions.

In conclusion, I would just like to draw a similarity between the fishing industry and some of the other resources that we see in the world. The oil-producing countries have a resource that the world desperately needs. They have used this resource as both an economic and a political tool to further their interests. We have vast renewable resources of fish, grain, and timber, which could similarly be used as a tool for the advancement of our national interests.

However, instead of using these resources to benefit our shaky economy, we sell our grain overseas for less than the farmer pays for the fuel to produce it. We sell our logs while our mills close down for want of logs, putting a lot of Americans out of work, and we give away the resources of our ocean. We are not isolationists. We believe that we benefit from lively world trade.

However, we feel that it is time to start operating from a position of strength. In our opinion, this piece of legislation is a sensible and a courageous step toward making the fullest use of a valuable national resource, assuring the survival of a vital American industry, and preserving a unique way of life for future generations of Americans.

Mr. **Breaux**. Thank you, Ms. Chapman, very much.

Mr. Chatman.

STATEMENT OF MR. CHATMAN

Mr. **Chatman**. Congressman Breaux, other members of the committee, this is the first time I have been seasick in about 10 years sitting here today. I thought I was over that, but this place here isn't quite as stable as my boat.

In opening, I would like to say this is a gutsy approach, in my opinion, and I really commend you. When I picked this piece of legislation up on the west coast, I said, what do you know—they are finally going to take a bite of it. I like to draw the simile, this isn't band-aid therapy, this is open-heart surgery, and we are in desperate need of an operation.

I thank you for having me here today, and maybe I can give you a few of my insights on the industry.

My overall feeling of the health of the industry, our whole economy seems to be in ill health and our industry is in a total disaster, it seems. I listened to my fellow fishermen from the gulf and the horror stories and the tales that they tell, and yet we have a vast resource in the Northwest that I see can put a lot of these same boats back to work if we take it back. We have lost it. We have given it away. It is not a matter now of preserving. It is a matter of taking back what belongs to us.

I don't think that the fishermen that I represent, and most fishermen that I talk to as you walk up and down the docks and you sit and you chat with them, their heads hang. They are a proud people with a proud way of life. Their heads are between their knees now. They really just can't fathom what our own Government is doing to us.

I came back here and I thought the problem was foreign intervention. and I come back here and I listened to the testimony here on the 6th, and I think I found the enemy. The enemy is right here. The enemy—I couldn't even imagine that people whose salaries are paid by us could take this stand. What happens when it runs out? There will be no more salaries to be paid. I don't mean to be emotional but I really am emotional about this particular situation.

You can't compete side by side economically with free enterprise and total subsidy. They don't work together. They never have worked together. They seem to show total disregard for our well-being. Our Government just keeps letting them do it and letting them do it and letting them do it. I think that this piece of legislation is really strong.

We also support for the overall health of America a phaseout over a period of time of joint ventures, so that there are beach jobs created by this. You talk to a lot of people. There are 15,000 signatures here from people who believe the same way I do, from Oregon and the southern part of Washington alone, that have been gathered in 3 months from local House of Representatives people, Senators. Out of the economy, they are trying to save something.

As Mim drew reference to the timber industry which is drying up on us, we have got a real resource there in our area that could well be put to use. There are a lot of people here that are going to rely on the shoreside facilities for their livelihood as they get knocked out of the timber industry. We are in terrible health on the west coast, and I think we are probably in better shape than the shrimp industry by a long ways after what I heard here today. I thought we really had severe problems, but when I look at those fellows, their backs are really to the wall. I have all kinds of sympathy for them.

Basically, fish force supports your phaseout with an escalated scale of 100 percent. We would like to see the power taken away from the Secretary of Commerce to roll back these phaseouts at any time. We would like to see this phaseout definite and absolute.

The other way hasn't worked. It just plain hasn't worked. It is obvious. The industry keeps going down. It hasn't worked, so let's take this drastic step. If this doesn't work, legislation can be changed 2 or 3 years from now, but give us a chance this time. Give us a chance to get in and try. The American people have said, shall I come forward when offered the opportunity, and until we are offered the opportunity, you can't say we can't do it. I believe we can do it.

We also strongly support your 100-percent observer program. We would like to see it defined a little stronger to mean three observers on each boat on a 24-hour basis, so we get absolute observation of what is happening within our waters.

We also support a concept with the title XI guarantee money. We would like to see that encompass all fishing vessels like, as Mim drew reference to, the Production Credit Association. They are going to be in as bad a trouble and we just don't want to see the Government covering their own tail at this time without private enterprise being covered also.

I am sorry I am staggering so bad, but I am still shaking. If there are any questions, I will be happy to answer whatever I can.

[The information follows:]

STATEMENT OF GREG CHATMAN

My name is Greg Chatman. I am appearing today on behalf of FISH FORCE. FISH FORCE is mainly an alliance of fishermen, but also is supported by processors, members of support industries, citizens of fishing communities and consumers--all of whom are concerned about the ability of our Nation to utilize those renewable resources found in the 200-mile zone that was established by the Fishery Conservation and Management Act of 1976, as amended (the "FCMA"). Attached to this testimony are the names of over 15,000 people that signed petitions in support of the activities of FISH FORCE. Also attached is a list of organizations that support FISH FORCE. The strength of FISH FORCE lies with this large group of people that believe that it is in the best interest of the Nation to establish a foundation in law in order that our fishery resources can be productively put to use by citizens of the United States.

The general purpose of FISH FORCE is to have our Nation effectively control its fishery resources for the benefit of its citizens--American Fish for Americans. Our goals are the same as those expressed by Chairman Breaux at the time H.R. 7039 was introduced, namely have the United States fishery resources fully utilized by its citizens, create 40,000 jobs, add over $1 billion to the economy and have the Nation become a net exporter of its fishery resources rather than a net importer. FISH FORCE exists to pursue these goals and in large part has been successful in gathering the support due to the strong belief by many on the West Coast that the message concerning what was happening to the West Coast near water fisheries was not getting through and that the near water West Coast fishing industry must bring the message to Washington and have Congress establish an adequate economic foundation for the development of the fishing industry.

I am a career fisherman. Fishing has been the sole means by which I have earned my livelihood for the past 20 years. I have fished for lobster of the East Coast, dragged for ground fish off Georges Banks, seined for Tuna out of San Diego and fished off both sides of South America and the West Coast of Africa. For the last 8 years I have fished off the West Coast of the United States and in Alaska. Generally I have made a fine living; however, during the last few years the ability to do so has been greatly diminished. In spite of the great promise of the FCMA my unpleasant experiences during the last two years of fishing are shared by many fishermen on the West Coast. As spokesman for FISH FORCE, I cannot overstate the importance of the work of this Committee.

the necessity for a meaningful piece of legislation and the strong desire by the supporters of FISH FORCE to cooperate with the Committee in order that legislation which achieves the goals stated above as rapidly as possible can be enacted into law. I and others want to return to what we do best and what we believe would be in the best interest of the Nation for us to do--go fishing.

SUPPORT H.R. 7039

FISH FORCE supports H.R. 7039; however it is believed that certain amendments to the Bill will be necessary if it is to achieve its stated goals. While FISH FORCE originally supported Representative Weavers 40-mile bill, H.R. 5946, we agree with him that H.R. 7039 is a more comprehensive piece of fisheries development legislation and should be focused upon by the Committee. In large part, our support for Representative Weavers' bill was due to the fact that it was the only piece of legislation that, if enacted, would be of some immediate value to the United States fishing industry. S. 1656, the National Fisheries Development Act, simply would not have done the job. FISH FORCE commends Representative Waver for leadership and his support for H.R. 7039.

It also must be recognized that it is difficult for fishermen to relate to National legislative efforts as the demands of their business--managing a boat and its crew, capturing fish that are free to roam vast areas of the ocean and selling what is caught--is often more than a full-time job in itself.

AMENDMENTS NECESSARY TO MAKE H.R. 7039 WORK

FISH FORCE believes that the following four amendments to H.R. 7039 are absolutely necessary if the Bill is to be effective. The West Coast fishing industry desperately needs an effective piece of legislation that would allow members of the industry to engage in productive operations. The people are ready and would like to have the opportunity to engage in such operations as soon as possible. The four proposed amendments would allow that to occur. Absent these amendments, H.R. 7039 would be much like its predecessors--too little, too late--and would demand that the United States fishing industry return to Washington in a short while to work on yet another legislative project. Please believe me when I say that I would rather fish.

1. Advance the Phase-Out Schedule

At this time on the West Coast there is sufficient harvesting capacity and the willingness to use that capability to catch a far greater amount of fish that is currently being taken. If H.R. 7039 is to have any beneficial effect in the near term, a more immediate reduction in the foreign fishing effort would have to take place. FISH FORCE believes the following schedule for the phase-out should be adopted:

1981, no more than 75% of the base harvest;
1982, no more than 50% of the base harvest;
1983, no more than 25% of the base harvest; and in
1984, no foreign fishing at all.

Given the ability and willingness of the United States fishing industry to immediately harvest substantially more fish than it currently is, there can be no reason why the phase-out schedule cannot be advanced. A large part of the reason why markets have failed to develop for United States harvested fish has been due to the ability of foreign nations to take the fish directly with their own vessels. Immediately reducing the efforts of foreign fleets to a significant extent should have the desired effect of opening some markets that either have been closed or controlled by foreign nations to the extent that the markets are unprofitable for United States fishermen and would reduce gear conflicts by limiting the number of foreign vessels on the grounds.

The reduction of the foreign harvesting effort by only 90% in 1981, as currently provided in H.R. 7039, simply does too little for the industry in the immediate future. We are all aware of the severe problems facing the fishing industry at this time and the need to put our fishing boats back to work as soon as possible. On the West Coast off Oregon alone over 75% of the boats are not working or are working on curtailed schedules. The phase-out schedule that has been suggested along with the necessary amendment set out below, if adopted, would provide a basis for having our fishing fleets more actively employed by the 1981 season. Absent these two changes many boats could be lost and may be unavailable in future seasons. Esentially, the immediate problems require an immediate solution.

2. Make the Phase-Out Unequivocal

Foreign nations have treated the FCMA with a great amount of disdain as it concerns the preferential right of United States fishermen to harvest our fishery resources in the 200-mile zone. If the phase-out of foreign fishing is to give adequate notice to foreign nations that the United States is going to effectively control its fishery resources, the phase-out must give such notice in no uncertain terms. The phase-out should be unequivocal and absolute. The Secretary of Commerce should not be given the authority to override the phase-out schedule. Given any authority to declare a surplus of fish that could be made available to foreign nations, NMFS will use that authority and continue to find a surplus of fish and make it available to foreign nations.

If H.R. 7039 is not amended in this respect it should be expected that foreign nations will merely *wait and see* whether they will be able to cause an allocation of fish to be made rather than open markets to United States harvested fish. This wait-and-see approach will further undermine the creditability of the fishing industry as yet another round of legislation will have been passed and nothing will have changed in the industry. Investor confidence will have been further eroded and in lieu of phasing out foreign fishing perhaps permanent suprluses in our 200-mile zone will have been created for foreign fleets.

We are very concerned about this provision for if H.R. 7039 is enacted and it fails to reduce foreign fishing in our 200-mile zone, the entirety of our 200-mile zone legislation will have not even preserved what fishermen had under the Bartlett Act, a 12-mile zone in which there was no foreign fishing. The ground that will have been lost by the United States fishing industry may not be capable of being recovered and most important, the benefits of the Nation could have derived from our 200-mile zone fishery resources will go to foreign nations instead and perhaps at an increasing basis.

3. Phase Out Foreign Joint Venture Processing

FISH FORCE is not merely concerned with the short-term needs of United States fishermen but also with their long-term needs and the good health of the entire fishing industry. It would be terribly short-sighted to phase out foreign harvesting fleets and to continue to allow foreign processing vessels in our 200-mile zone to process United States harvested fish. Foreign fleet processing operations may offer a good market for the short term and perhaps many new boats could be built to serve these markets; however, the United States processing industry could not prosper under such circumstances and probablay could not survive. FISH FORCE believes that United States fish processors are in no better position than United States fishermen in competing against subsidized foreign fleet operations. This segment of the United States fishing industry needs no less help than the harvesting segment in meeting the challenge of foreign nations to continue to dominate certain world fishery markets and operations in our 200-mile zone.

If these foreign fleet processing operations displace United States fish processors, United States fishermen would be at the mercy of foreign processing fleets. Without the availability of a domestic market for their fish, domestic fishermen will have no choice but to take whatever terms are being offered by the foreign fleets. The foreign fleets would, of course, have the ability to move on to other fisheries and simply strand the domestic harvesting fleet. The risk to domestic fishermen of losing the domestic processing industry, a vital link to the fishing industry, would be too great if they were forced to compete with foreign fleets. If the fishermen do not like the terms being offered by the domestic processors they have several alternatives, among which are to strike or to make deliveries to other domestic processors. As the domestic processors are unable to move to other areas, these alternatives are fairly effective. The point is that solely relying upon foreign fleets to provide markets to United States fishermen would be foolhardy.

There are those that argue that joint ventures can be a vehicle to open foreign markets for United States harvested fish and once established that United States fish processors will be able to displace the foreign processors in these newly established markets. I understand that sales from these joint venture processors to foreign nations are not considered as exports from the United States by foreign nations. If this is the case, how can these operations be said to open markets for any United States interests? Moreover, even if markets were technically opened in this manner, how are domestic processors to compete against foreign processors operating virtually in the same area and processing the same fish, yet who are not subject to our laws and regulations that make the operating costs of domestic operations significantly higher? It would appear that those that make this argument are more concerned about short-term gains for fishermen without regard for the overall general health of the fishing industry.

4. Enlarge the Fisheries Loan Fund to Include PCA

The largest holder of mortgages for fishing vessels on the West Coast is the Production Credit Association. Owners who have financed their boats through this organization should not be treated as second-class citizens to those financed by the Title XI Obligation Guarantee Program under the Fisheries Loan Fund program.

We also would prefer that loans be granted only to those who earn their livelihood principally from the operation of the boat that has been financed. The program should not be used to aid those who are involved in the fishing industry only on a part-time basis.

CAPITAL CONSTRUCTION FUND

FISH FORCE is not opposed to the benefits of the capital construction fund program being made available to the fish processing industry but is concerned about the ability of domestic processors to withdraw amounts on deposit in a capital construction fund and invest them in a fishing vessel rather than plants and facilities. Indeed our support for processors stems from the belief that our fisheries should be controlled totally by the United States industry and consequently fishermen will have stable markets for their catch. It would do fishermen little good if processors added further to the harvesting capacity of the Nation and little plant expansion occurred.

We are not at this time suggesting that processors be prohibited from investing in fishing vessels from money withdrawn from a capital construction fund; however, we would hope that the activities of this program could be monitored in order that we get an early warning signal if this type of investment pattern begins to occur.

FULL OBSERVER PROGRAM

A meaningful Full Observer Program would require that three observers be present on each foreign vessel, one for each 8-hour shift. Anything less could perpetuate the underreporting and gear conflict problems that have been widely reported. FISH FORCE strongly urges that this program be strengthened and that enough observers be placed on each foreign vessel operating in our 200-mile zone so that all their operating and harvesting operations can be accurately recorded.

FISHERMEN'S PROTECTIVE ACT

A technical amendment is required to waive the 60-day requirement under the Fishermen Protective Act with respect to claims for the 1979 season. The program has not been operating long enough to have certain problems concerning its administration smoothed out and as a consequence fishermen were not informed of its existence and how to take advantage of the program.

I personally thank you very much on behalf of myself and the fishermen I represent for your strong effort on our behalf, and for the privilege of being here today.

Greg Chatman
GREG CHATMAN

Fishermen
Intent on
Sending
Home

Foreign
Operations taking our
Resource and
Controlling our
Economy

PARTIAL LIST OF ORGANIZATIONS SUPPORTING FISH FORCE:

FISH (Federation of Independent Seafood Harvesters), Ilwaco, Wash.

Salmon Trollers Marketing Association, Ft. Bragg, Cal.

Brookings Fishermen's Marketing Association, Brookings, Ore.

Blue Pacific Fishermen's Association, Winchester Bay, Ore.

Association of Northwest Steelheaders, Chetco Chapter, Harbor, Ore.

Coos-Curry-Douglas Economic Development Council, Coquille, Ore.

Port Orford Port Commission, Port Orford, Ore.

Port of Brookings, Brookings, Ore.

Port of Umpqua, Reedsport, Ore.

Port of Nehalem, Manzanita, Ore.

Port of Gold Beach, Gold Beach, Ore.

Mr. **Breaux**. I thank both of you very much for really excellent statements, and a very good perspective on how the fishermen in your areas feel about the situation, and what you would like to see in legislation. I know that if you are full-time fishermen, you don't really have a great deal of time to sit and read legislation and committee reports and studies and everything else.

I particularly appreciate your coming and being with us. I think you have very eloquently told the story of the problems you are having, and the fact that you feel your government has really let you down as far as some of the positions that have been taken by not only this administration but others that preceded this one.

I recognize Mr. Forsythe first for questions.

Mr. **Forsythe**. Thank you, Mr. Chairman.

I fully agree with you. Both witnesses have told a sorry tale very, very well. On this question of phaseout, there is one question that I think runs through my mind.

The assumption is that when foreign fishing is phased out, those nations will have no other choice to secure their fish except from our American fishery industry.

Do you believe that is an accurate assumption?

Mr. **Chatman**. I believe it is definitely accurate. Let's just take the specie of black cod which the industry has opened and closed within a year. Ninety percent of the world's resource is in our waters, so it would seem to me that if you can't catch it for free, and you need this protein, this particular species, you will come to us to buy it.

Mr. **Forsythe**. You don't believe there are substitutes for black cod?

Mr. **Chatman**. I definitely believe there are substitutes for anything. I don't think anything is absolute, but the way the system has worked now, up to this point, it hasn't worked.

We keep going down and down and down in the world fisheries market.

Quite frankly, we have got enough market right here in our own country just by the trade deficit in itself to cover all of our fishermen, and for a lot of new hopefully aggressive processing people to get into this industry, if we give our own industry some protection so they can go in.

New England Seafood, NEFCO, they are out. They are progressive. They came in first. Icicle, it looks to me like they are the last ones left in the unutilized species in Alaska. They have got one foot on the grave and the other one on a banana peel if they don't change around. These people are out front with private capital and they are getting killed.

I think we can take this. We will never take it until you gentlemen make a law that says here is your chance, and when we come back in front of you 2 years from now if we feel, you can say "Aha, I told you you couldn't do it," but at least we have had a chance.

Ms. **Chapman**. On that I would like to quote in my testimony I included some newspaper clippings from fishermen in other parts of the country in an attempt to get as many voices here as possible. There is an article speaking from the National Fisherman of March 1980 which is in the testimony.

The headline is "Foreign quotas may hamstring butterfish sale."

Of course, as you know, black cod are sold as sablefish or butterfish, although the east coast species is slightly different. The issue is the same.

> A viable market may be strangled before it developed if proposed 1980 allocations of butterfish to foreign fleets are made.
>
> Any amount to foreigners is too much according to the fishermen since the only market which can handle the quantities Americans want to handle is foreign, and specifically Japanese.
>
> The foreign export market should be allowed to develop.

Further on down, "The reason the Japanese are not buying butterfish from us is that they can catch our own."

Then further down they made the same point that I have made, that if they don't catch it, because they are not buying it—we work from the assumption that if there is this many fish here and we catch this much, this much should be given to the foreigners.

Well, the situation is, if there is this much here, and only a market for this much, and we give this much to the foreigners, this amount can't be caught by Americans because there is no market for it, and therefore it can be declared an underutilized species, we are not catching it, and the whole ball of wax can be given away. They make the same point.

> Also surfacing was the concern by fishermen that with no Japanese markets American fishermen would not be able to keep all their allocation due to a lack of markets. Inability to harvest the full allocation would lead to the reallocation of surplus to the foreign fleets. We would be back where we were before with the foreigners raping our shores.
>
> I honestly believe the way it looks is the government is willing to sell us down the road.

This is from the east coast, and I think it speaks to the same question.

Mr. **Forsythe**. Thank you. Both of you recommend that foreign processing also be phased out, but would this enhance the fishermen's position? For instance, wouldn't it be better to allow joint ventures since the foreign fleets already have the capacity to process for the market this fish, though, according to your testimony U.S. processors do not?

Mr. **Chatman**. Yes, that is probably true, Mr. Forsythe, to a degree, but what is going to happen 5 or 6 years from now when we look down the road and all of a sudden all of our American processors are out of business basically, and we are trying to sell our product?

We will flourish as fishermen for 2 or 3 years through this, but I would hope that at this juncture we would take a long look down the road as to when these vessels can sail in and out to process our product. They will sail in and they will sail out, but shoreside facilities don't sail in and don't sail out. They are there, and I hope that if we put a moratorium or some sort of a phaseout on the joint venture, maybe over a 10-year period somewhere along the line the American processor will take it back, and as it is right now I understand 87 percent of the processing plants in Alaska are owned by Japan anyway, so I would kind of hate to face that part of it, but isn't there somewhere along the line where you can draw the line?

We have no control over our own markets on the west coast.

Mr. Forsythe. What would be the case if the tables were completely turned and you had only American processors to market to? Do you believe you would be in a better position in terms of being able to command a profitable price for your product?

Ms. Chapman. Let me say this: We support a temporary joint venture. We are not saying that tomorrow we want all foreign processors out. We realize that there is a need for a certain period of time when there are foreign processors during which time title XI and the CCF provisions of this bill would allow American processors to move into these species. The problem is this. If I have some money that I would like to invest in a processing operation, and I am in the situation that Icicle was in in Alaska where I put my money into a barge, I float it over and I am buying fish. Four miles away there is a Soviet processing vessel buying the same fish, selling it into the same world market with no cutoff date as to when he is not going to be there any more.

He is a totally subsidized operation. I have to abide by the health and safety operations of the U.S. Government. I pay taxes to the U.S. Government. My fuel isn't subsidized. I have to pay minimum wage and all of these things, which are great.

The Soviet vessel in the first place is not contributing at all to the shoreside job situation. He is not paying taxes. He doesn't have to pay minimum wage. His fuel is subsidized. Am I really going to risk my capital to go in there 4 miles away from him?

Unless we give a cutoff time and say OK for now, but at *x* point down the road he is going to be gone, then the American processor with any sense at all will never even go into an underutilized species. He would be foolish to do so.

Mr. Forsythe. Let me make sure I understand you. You say that it shouldn't happen tomorrow, but you still maintain that a total phaseout of foreign processing would be your ultimate goal.

Mr. Chatman. Let's approach it a little differently than that. Let's say *x* amount of vessels that are already involved in this joint venture are allowed to continue, but what is happening is joint venture is escalating every year. It is going up and up and up, and 2 or 3 years from now, and I hope that they are put on notice basically that the jig is up, there will be no more fishing in here, joint ventures are going to be coming from everywhere in my city.

They are going to start to jump into this market wide open.

I would like to say during this interim period of time *x* amount of joint ventures are allowed to start and go along, but when they get total control of the market, which they have basically got, which they are going to have in that aspect, we are going to have to deal with them. What we are doing is, we are putting the problem off. We are saying OK, we are not going to face this problem today. We are going to face this one 5 years from now.

I would think with this type of a piece of legislation laid out and this type of an overall approach, why not face the whole problem now instead of closing our eyes, sticking our heads in the sand and saying this isn't going to happen or let's wait and see.

We have been waiting and seeing since I can remember.

Believe me, I have been fighting with processors for 20 years, and most of them—we have been fighting processors for price my whole life. That is an every day ongoing battle, but at least they speak and they live in the same world I do, and they speak the same language I do, so I can understand where they are coming from, and so I would prefer personally to deal with our own processors on a basis that somewhere we can find a medium.

Mr. FORSYTHE. I suppose there could be a difference, for instance, with shore-based processors. That shore-based processor has got to come under the health, minimum wage and all of the other things that Mim talked about, regardless of whose money or whose investment is in it, whereas once you get out of the territorial waters, you do have a freedom from those laws.

I am not sure where you want to draw the curtain and how fast. I think that is something that needs a little bit of attention and working out.

Mr. CHATMAN. At least with shore-based partially foreign-owned processors, our economy is getting something out of it.

I mean, they are collecting tax money and there are jobs being created there, but what has really happened, you look into the market itself, and 5 years ago or 6 years ago when the Japanese really took a strong stand in Alaska, I mean things were fat. Everybody was rolling; it was tremendous.

You look at it today, just one species of fish, halibut. Last year they sold for as much as $2.35 a pound. Do you know what they offered us this year? Our boat is in Alaska at this point. Do you know what they offered this year? 70 to 90. The whole economy is in bad trouble, but the choke comes on.

In other words, it is like the guy with 10 bushels of oranges and I have got a quarter of a bushel of oranges, and who controls the market? My quarter of a bushel of oranges or the fellow with 10 bushels? He has got the marketplace.

What the approach is there, Congressman, I don't know, but I do know that somebody has got to be able to put together a package that will allow us to flourish in that market when we do have the resource.

Mr. FORSYTHE. You oppose the cross-over provision in the capital construction fund because it would allow U.S. processors to use their funds to purchase fishing vessels and vice versa.

Currently there are $98 million in the fund to invest while the processors eligible to use the program have zero. Your testimony states one of the most significant obstacles to developing the U.S. fishing industry is the absence of adequate processing capacity. Wouldn't it make sense to allow the U.S. fishermen to use their capital funds to expand in this process?

Mr. CHATMAN. I don't think that is in my testimony because I don't feel totally that way.

I will tell you what our basic fear is there, that we will be gobbled up basically at a time when the market is very low and independents will get gobbled up immediately like the ma and pa grocery stores have been gobbled up, and I think that is our basic concern.

Mr. FORSYTHE. The processors can move in?

Mr. CHATMAN. Right. I would love to see some real openings made available for the processing industry because I am more afraid for their position than I am for my own on a long-term basis.

It scares the devil out of me to look down the road and say I am totally controlled almost now, and it is going to get worse. I mean, how much worse can it get? It just flat scares me to death.

Ms. **Chapman**. The other situation, we have taken a good hard look at this. This is not at all my primary concern. It is just one area of interest that a number of fishermen expressed, and since I am speaking for them I wanted to pass it along to you.

By the very nature of the fishing industry, even though there is a great deal of funds in total in fishermen's capital construction funds right now, the very nature of the fishing industry, the kind of animal that goes into it tends to be quite an independent breed. There have been some very successful fishermen's co-ops formed for processing. However, they are the exception to the rule, not the rule.

The proceeds from any individual vessel are smaller proportionately than the proceeds from a processing industry, and therefore my concern is that the amount of time that it would take for a group of independent fishermen to all setttle on a time and a place that they were going to get together and decide how they were going to form a co-op to really make any significant move into processing is much greater than the amount of time it would take for a processor to take proceeds and buy up a fleet, especially since we are not going to have—as it looks right now we are going to be damned lucky to even make our boat payments this next year, much less get too many profits stocked up. It is not a major item though.

Mr. **Forsythe**. Mr. Chatman, you suggest on page 10 of your testimony that a meaningful observer program would require three observers to be present on each foreign vessel, one for each 8-hour shift. Couldn't one observer otherwise determine what was caught during those periods when he was not actually observing fishing operations?

Mr. **Chatman**. I have questioned that he could. I have talked to fellows that have worked in the observer program that were on boats and one fellow was on a boat for a month and he saw the net taken back twice for that month. He had been jockeyed all over that boat. I have written testimony from him that is right in this pile of papers that I have here. He might be sipping on a little vodka maybe somewhere or he might have been in the galley or he might have been here, and he approached us with this. To me if you are going to have an observer program, have one.

If you are not, don't.

If we are going to have an American fishing industry, let's have one, and if we are not going to have one put us on notice so we can get out. It is that simple. Either do it or don't do it at this point of the game. This piece of legislation is gutsy. It is and I love it. I really do. It is great. We want it harder and tougher. Basically let's go. Let's either go do it or don't do it. We don't want to take a beating like this forever. I am getting soft in my old age. I am softened up enough. I can't handle it any more.

Mr. **Forsythe**. We are not challenging your problems. We are trying to find the way to go, but to go from 100 percent to 300 percent on observers looks like a big mountain when we are having one heck of a job getting to even 20 percent.

Mr. **Chatman**. OK, on 40 vessels that fished off the coast last year, that creates 120 jobs. I think it is terrific. The foreigners are going to pay for it anyway according to the way it is laid down. It is a step in the right direction.

Mr. **Forsythe**. It may solve the whole problem if we go 100 percent because apparently we have already had some violent reaction to the 100-percent observer program.

Mr. **Chatman**. If they are afraid of being observed, Congressman, there must be something wrong.

Ms. **Chapman**. I think the salmon fishermen would be overjoyed with things like this. You have no idea how angry west coast salmon fishermen were who were sitting on the beach tied up because of season closures, watching Soviet ships towing back and forth the mouth of salmon stream when they knew it was full of silvers fishing for hake.

Mr. **Forsythe**. We have no doubt that the observer program on the west coast just absolutely hasn't gotten off the ground. Observer coverage is only around 8 percent in Alaska and there are all kinds of violations going on.

Thank you very much, Mr. Chairman.

Mr. **Chatman**. Can I ask the Congressman one question?

Mr. **Breaux**. Usually the other way around.

Mr. **Chatman**. I am sure you are familiar with this. The east coast fishery was hammered for years and I am sure your phone came right off the hook for years. What we don't want to see happen now is to destroy our fishery. In other words, you get on the right track and you have got the east coast fishery coming back, which is going in the right direction, and ours is going in the opposite direction, so it seems to me that we ought to stop that prior to the time that it happens this time rather than after the fact.

Mr. **Forsythe**. I can't help but agree with you fully. It is how we can get there.

Mr. **Breaux**. We just received a memo on that point from the National Marines Fishery Service which states that underreporting by the foreigners fishing within our zone ranges from 25 to 60 percent of the total catch on board, which is a very, very high figure, and I think really points to the fact that if we are going to have an improved observer program, that it ought to be one that is going to observe and report accurately. A 60-percent underreporting record is absolutely unacceptable.

Both Mr. Chatman and Ms. Chapman, we very much appreciate your testimony. Although you apologize for being here for the first time, you have done as well as anyone who has ever been before the committee. We appreciate it very much and thank you for coming.

Ms. **Chapman**. Thank you.

Mr. **Chatman**. Congressman, could I put these in as part of the Congressional Record?

Mr. **Breaux**. We would like to receive them for the committee. We would also like to have this support in writing to Members of the Congress, so we would like to have the names.

Mr. **Chatman**. There are a lot of phone numbers there. These are the feelings of the people.

Mr. **Breaux**. We would very much like to have it.

Mr. **Chatman**. Thank you very much.

Mr. **Breaux**. The subcommittee would like to welcome our next panel of Mid-Atlantic commercial fishermen, Mr. Victor Aughe, commercial fisherman, A&A Fisheries; Mr. Julian A. Pennello, who is a captain, accompanied by Mr. James Callis, a commercial fisherman; and Mr. Steve Carpenter, also a commercial fisherman.

PANEL: MID-ATLANTIC COMMERCIAL FISHERMEN—VICTOR AUGHE, COMMERCIAL FISHERMAN, A&A FISHERIES; JULIAN A. PENNELLO, CAPTAIN, COMMERCIAL FISHERMAN; JAMES CALLIS, COMMERCIAL FISHERMAN; STEVE CARPENTER, COMMERCIAL FISHERMAN

Mr. **Breaux**. Mr. Aughe, we have you listed first. Your prepared statement will appear in the record at this point.

[The information follows:]

STATEMENT OF VICTOR AUGHE

Mr. Chairman and Members of the Sub-Committee, I am grateful for the opportunity to speak to you today in support of HR7339 the "American Fisheries Promotion Act".

My name is Victor Aughe from Boston and prior to entering the commercial fishing industry in 1976, I was a union electrician caught in the constant layoff situation caused by the recession of early 70's. I viewed the 200 mile legislation passed in 1976 as an opportunity to provide a better life for my family and at the same time be involved in a livelyhood that I had always been attracted to, the sea.

After a frustrating and time consuming encounter with the first of many government agencies with which I would come to be involved, the SBA, I joined forces with my brother Gerard who shared my ambitions and formed a seafood restaurant A & A Fisheries. After one year in business, we purchased a 42' Bruno Stillman Hull for harvesting Mass. native lobsters. Since we bought fish at the Boston Fish Pier on a daily basis for our restaurant we noticed the small volume of fish coming into the facility. We were told by the Commissioner of the Fish Exchange that out of a fleet of 500 boats back in 1940 only 16 boats were still fishing and out of 16 only 2 had the capability of fishing the New England winter weather. This meant 40 years ago the catch was in the millions of metric tons. It is now less than 1/2 of 1% of that figure.

There had been no new boats added to the fleet for quite awhile and we could see with the enforcement of the 200 mile limit and the elimination of foreign fleets that this could possibly be an excellent investment.

With the foreign fleets eliminated the fish would multiply and bring back the stock that were so vastly depleted by countries with factory ships, and small mesh nets and who had no regard for the spawning season. We then looked into government loans at the Marine fisheries in Gloucester, MA. We were told that due to the endangered species of haddock, cod and yellow tail flounder that there were no monies available for New England fishermen.

We put up our limited savings, took second mortgages on our homes, borrowed from friends and relatives and securred a commercial loan from the National Shawmut Bank of Boston to purchase a 76' wood constructed trawler. To be quite honest we met with limited initial success with the first vessel because of mechanical problems beyond our control such as winch breakdowns and rudder difficulties. This in turn made it unable for us to make a financial success of this vessel. Taking these conditions into consideration we then determined that it would be more feasable and economical to purchase a steel trawler of approximately an 80-90' size.

We contracted Steiner Fabricators of Alabama to purchase an 87' steel stern trawler. Financing at this point was provided by the shipyard at the Mobile National Bank in Mobile, Alabama, with a 6 month mortgage-anticipating our commercial bank in Boston to transfer this mortgage on June 30, 1980. Again with no federal assistance.

As we started to fish into January and February the interest rates soared to a ceiling of 21% with a 3% over prime financing. This in conjunction with the federal quotas of 20,000 lbs. per week of cod and haddock and a $1 per gallon diesel fuel price made it impossible for us to compete in Boston with fish being trucked down from Canada from a subsidized fishery. This influx of Canadian fish lowered our average prices down to Summer prices exceptionally early in the Spring. Quotas of 20,000 lbs. at 15¢ a lb. cannot possible pay a $10,000 monthly mortgage, a $3,000 monthly insurance bill, or a $4,000 diesel fuel bill for an average 7 day trip. In addition to this, you have the ever escalating costs of fishing equipment which constantly needs repairs.

As you know, as of June 1, the Georges Banks haddock areas will open to American and Canadian fisherman. Although we cannot fish their waters they will and can fish ours with no quotas thus flooding the New England fish market again with more fish than can be sold. This is due to the lack of marketing techniques which have been neglected by whomever is to blame.

To fish under utilized species is a complete financial disaster as I will explain.

We were approached by Greek importers for dog fish and scup and fish of the perch family. We were told we would be given an 8¢ guarantee.

First of all, you could not possibly put enough of these fish on existing New England boats to make one month's expenses. Secondly, the fishermen would not fish with these prices because it would not be financially to their benefit. They would receive far less than minimum wages

A fisherman's life is probably as lonely an existence as one can imagine enduring more dangers and physical hardships than any of us realize.

Again I am grateful for this opportunity to speak to you because on June 30, 1980 I am going to be in default of the mortgage on one of my two fishing vessels, and very shortly will be in default of the other. Perhaps by my being here today Congress will take steps to lessen the chances that other fishermen will find themselves in my predicament.

In the Boston, New Bedford and Gloucester area repossessions are now going on with people losing their life's savings because of something over which they have no control.

I find it very sad to have invested in an industry which is the oldest in America having had it's birth in the Boston area and possibly it's death in the same area because it is being so poorly neglected.

Possibly with changes in the treaty with Canada such as equal fishing rights and import tax on Canadian subsidized fish they will no longer find it profitable to flood the American market.

Again, thank you for your time and attention. I will be happy to answer any questions.

STATEMENT OF VICTOR AUGHE

Mr. AUGHE. Mr. Chairman and members of the subcommittee, I am grateful for the opportunity to speak to you today in support of H.R. 7039 the "American Fisheries Promotion Act."

I am strictly coming here as a fisherman and telling you like it is in Boston.

The previous speaker on the other panel said that we are in great shape on the east coast. I have got to find out where she is keeping her boat.

To make it brief and I am sure everybody is in a hurry to get out of here, in the early seventies I was an electrician. With the recession coming and things changing and being in the Boston fishing area all my life and they passed the 200-mile limit, I thought this would be a good opportunity to get into the seafood business. Earlier speakers said they were speaking of two and three generations of fishing. I have been on the fish pier all my life but my family hasn't been two generations. After a frustrating and time consuming encounter with the first of many Government agencies with which I would come to be involved, the SBA, I joined forces with my brother Gerard who shared my ambitions and formed a seafood restaurant, A&A Fisheries.

After a year of opening up the restaurant, we went into native lobsters. We fished for 1 year. Finding out that fish was always very scarce at the fish bed, we thought getting involved in a fish trawl was the ideal thing. A 200-mile limit, it would be great. Somehow it didn't work out.

In 1940, speaking to the people at the exchange—I am sorry that I am jumping around like this, but it is different sections that I have here—in 1940 there were 500 boats in the Boston fish pier. In the last couple of years it has been down to 16. A lot of people said today that the problem with the American fishing people is they are overfishing the fish, which is not really true in the Boston area. There have been some new boats down in New Bedford, but from 500 to say 16 or 10 you certainly can't say that the fish is being overfished.

After a while we finally took delivery of a 76-foot wooden trawler. We had quite a few problems with it and we really didn't have too much success. We figured after all of the difficulties we had that possibly the proper boat would be what someone spoke of earlier, an 80-foot boat with a port nose cell which gives you better fuel efficiency.

We took this in January and we had a 6-month mortgage from an Alabama builder, with the anticipation of moving it up to our commercial bank in the Shawmut on June 30, 1980. Again we never had any Federal assistance. It seems like if you took Federal assistance you shouldn't be here, but anything we had done in the seafood business was without Federal assistance. We started fishing through January and February and the interest rates soared to 21 percent with a 3 percent over prime financing—this in conjunction with Federal quotas of 10,000 pounds per week of cod and haddock and $1 per gallon of diesel fuel made it impossible for us to compete in the Boston fishing.

Actually what would happen on the first part of every week there would be Canadian fishermen coming down. You would come in with a trip of 60,000 to 80,000 pounds and the dealers would say you fellows are in trouble today, look out in the driveway, and there would be 500,000 pounds of Canadian fish.

What would happen is, when they give you at the auction 15 cents the Canadian fish would be then purchased at 10 cents or sometimes 5 cents according to whether the dealer was willing to drive it back to Canada or he just wanted to take it out of his truck.

When you get 15- and 20-cent fish and you get a 20,000-pound maximum yield that they will let you take, and believe me Marine Fisheries is doing their job in Boston because they are standing there every morning with agents and they will count your fish.

It gets to a point where it is almost laughable but obviously they are trying to enforce something which everybody else is not having any luck with in the rest of the country.

When you take an 80,000-pound trip and most of the fish is not of the cod and haddock family and they give you 15 cents, you cannot possibly pay the mortgages, the fuel, diesel fuel is a tremendous problem.

I am sure it is going to be that way, and I don't believe that anybody is going to change it. We talk about Canadian subsidized fish. I don't know whether they are just paying a cheap price for fuel all through the country or it is just something that is given to the fishermen—I really can't verify that fact, but what really upsets me most of all and the reason why I came down here, as of June 1 the Georges Bank haddock areas will reopen.

The Canadian fishermen will storm in there like they are giving the fish away. What happens all year long, we never once can fish in their area. They will come down and take their fish and there is no quota on the Canadian boats. We will come in with our standard 20,000-pounds summer price and we can't possibly meet our expenses when the Canadian boats are taking all the fish they want, bring it into Canada, put it on a truck and it comes to Boston and there it sits. It makes it very difficult for us to compete in the market where fish is sold on a noncompetitive basis.

I hear people talk about unutilized species. I myself put everything I have owned into this whole operation. I have changed nets. I have gone to European designs to get a larger fish catch. I mean I have spent more money than I really intended to spend to get to where I am, but the fish in underutilized species in the New England area would be disastrous. We were approached by Greek importers for the dogfish. We were told we would be given an 8-cents guarantee.

First of all, I am not familiar with what boats are out in the wash area. They talk about factory ships. Nobody in our area owns a factory ship, but if you were to take as many fish as you could put on the deck of one of our boats at 8 cents, you couldn't possibly make any expenses.

Second, the fishermen, everybody claims they are subsidizing their fishermen personally. To keep experienced help, you have to do something with them. If we were going to bring in 8-cent fish the fishermen would not fish at these prices because it wouldn't be financially to their benefit.

They would probably receive less than the minimum wage if you took the 24-hour period they work over a 7- or 8-day trip.

A fisherman's life is probably as lonely an existence as one can imagine. It is dangerous. It is physical hardships and most people don't realize what a fisherman goes through to get the fish. Even the dealers are included who will beat you over the head when you come to the pier. It is a hopeless thing when you go out there for 6 or 7 days and you come in and after you have taken off your fish there is foreign fish sitting there and you can't possibly make your expenses as you have said before.

I am grateful for this opportunity to speak to you because on June 30, 1980, I will be in default on the mortgage of the first of my two fishing vessels. Shortly thereafter I will probably be in default on the other. Perhaps by my being here today Congress will take steps on this.

In the Boston and New Bedford areas, repossessions are going on constantly like the woman previously said. It is getting to the point I don't know in the case of Government loans there is no Government money. I find it very sad to have invested in an industry which is the oldest in America, having had its birth in Boston and possibly its death in this same area because it has been so sorely neglected.

Possibly changes with the treaty with Canada, equal fishing rights, I notice to start talking about a fishing rights with Canada is very unpopular, but I think that is one of the solutions. I don't know, maybe when the prices are taxed, if their fuel isn't subsidized they can't possibly bring in trucks. They must be paying diesel fuel when they come into this area.

It would be financially impossible for them to bring it to Boston. The funny part about this whole thing this morning when I sat at the breakfast table reading this thing here and not being a public speaker, I spoke to my son at the breakfast table and he said, "Gee, Dad, here is a report that I am doing for school." He hands it to me and as I read it I said, "You know, son, if I had read this 4 years ago, I certainly would not have gotten into the fishing industry."

I said, "Where did you get these figures?"

He hands me the Collier's Encyclopedia. People have come up with all kinds of facts and figures and this is coming from a 14-year old boy.

Commercial fishing is one of the world's major industries and an important source of food supply for a large part of the world's population. As I understand the decision, 200,000 pounds of edible fish per year are yielded by a single fisherman. One fisherman will supply more food to the country than six times that of a farmer in a farm in fertile condition.

Since the Second World War, the Soviet Union has built the world's largest fleet of ocean-going vessels, factory ships. Their annual catch, about 6 million metric tons, comes from the Western Atlantic.

This has been happening right along. People just didn't want to realize it.

This is the one that upsets me: "The United States with an annual catch of 2.4 million metric tons has not kept pace with the rapid increase in the size of the world catch. The U.S. portions of the world total fell from 12.3 percent in 1950 down to 7.5 percent in 1980." That is why, when I sat here earlier and heard people saying we are overfished, obviously with these figures we are falling way behind.

I came down here today—I realize legislation takes a long time to pass—but if there is going to be anything done on it, I think people should be considered that don't have Government loans. I think something should be done possibly about a tax on Canadian fish. Other than that, Mr. Chairman, I don't have too much more to say. If there are any questions I could answer, I would be happy to.

Mr. **Breaux**. Thank you very much, Mr. Aughe.

Captain Penello?

STATEMENT OF MR. PENNELLO

Mr. **Pennello**. Thank you, Mr. Chairman. This is my first time in Washington.

My testimony is very short.

I am J. A. "Tony" Pennello, a commercial fisherman with 33 years' experience, 20 owning my own vessel. I am representing a group of approximately 50 independent Virginia and North Carolina fishermen. We have discussed these matters among ourselves, and the following expresses our opinions.

I wish to address the impracticality of bill H.R. 7039, particularly section 212. Section 212, as written, will act to destroy the fishing industry rather than support it. The majority of the vessels originally built under this program are defaulting on their loans for several reasons: Nonprofessional, incompetent captains and the effect on supply driving the price of fish down. Simply put, these boats can't catch enough fish and receive a high enough price for their catch to pay their expenses. Not only is the increased supply hurting the incompetents, but also the lifetime professionals. It is inevitable that this program will fail.

The boats were unable to even meet costs when new, but now with the additional costs of maintenance and increase of fuel and other operating costs, they will fall further behind. I maintain this program be stopped now before it becomes impossible to stop. As it is set up, it will have to continue far past 1982; it will have to continue on for as long as these boats attempt to fish.

One reason for the failure is that the program was not administered properly. Before a loan was to be guaranteed, an experienced captain with a 5-year record of production was to be secured. In many cases, this was either not done or done only in record.

The Sea Freeze Atlantic and Sea Freeze Pacific were built at a total cost of $12 million and was the U.S. answer to Soviet fishing vessels. These failed miserably due to the lack of interest of competent manpower.

By the Federal Government tampering with the fishing business, it has commenced the demise of a once thriving industry. The independent fishermen were doing very well until the advent of these programs. The market will correct itself if left to react normally to supply and demand. If it isn't allowed to react, this will be another industry to fall to the mismanaged programs of the Federal Government.

These funds should be used to help balance the Federal budget. The capital construction fund that was put in, I think that was one of the best things the Government did, because it gave the man the incentive to go out and work. And when he had the money, there was a tax deferral—that way he could build a new boat, reconstruct a new boat.

But a lot of private investors got into the fishing business. All they had to do was put up 12½-percent money. And now it is getting bad for them, because they cannot produce. When these boats are a year old, the warranties wear off of them, wear and tear, the high cost of all maintenance. Now, I think myself that is what is killing it. I have got Captain Callis and Captain Carpenter here. They will be glad to answer any questions, and so will I, sir.

Mr. BREAUX. Thank you very much, gentlemen, for your presentations.

Do you have any thoughts on the proposal in the bill to phase out foreign fishing?

Mr. PENNELLO. I agree with that. I meant to say this in my remarks, sir.

I like the bill. I like the bill very much. We all do. We just don't like—we thought we would give our remarks on it.

Mr. BREAUX. Mr. Aughe, what about your thoughts on that?

Mr. AUGHE. Well, I am in favor of that completely. When they originally started—I found over the last couple of years—I also have a small retail fish market, and I am a little into processing. But I find it very difficult to answer my customers. They will come in and say, why is the fish *x* amount of dollars? They will say, "I read in the paper the foreign fleets are continually taking fish." My last 2 or 3 years in the business I have constantly spoken to different people. The answers I get are for diplomatic reasons—I understand every time you change something here, you people have to consider the whole country. You cannot make changes for the fishing people.

I try to tell the people for diplomatic reasons there are going to be people fishing here—whether it is going to end tomorrow or next week, or whoever knows. But I think, given our $12 million in permits, it is very hard for the American people to accept—especially fishermen who watch them tear up their equipment. We have continually had the same problems in the Georges Banks area with the boats crossing each other's bow.

We are the largest importer of fish in the world. Seventy-five percent of the fish in the world we import from Peru, and so on. If the fish is right here and they are catching it, let us catch it and earn a good living. I think it is the best thing. I realize it cannot be done tomorrow. It has to be done over a period of time, whichever time is acceptable to everybody.

Mr. BREAUX. Do you sell all your fish here in the United States?

Mr. AUGHE. Yes, I do. We were approached by importers from Greece. Evidently from what is coming—I am not too familiar with the legal aspects, I understand a lot of foreign investors are trying to come into the area. They can see we are all faltering with these boats. They would just as soon take a partnership, 51 percent. All of my fish right now that I don't process is sold at the Boston auction, which I am at the mercy of the imported Canadian fish.

Mr. Breaux. Captain Pennello, I guess to summarize your testimony, you would just like to see the marketplace take care of the problem more or less. I am wondering—what do you do with the fishermen facing problems because of fuel costs and because of unavailability of foreign markets? Do we just let them go? Do you try to address it through the Fishermen's Loan Fund? I am looking for any kind of suggestion.

Mr. Pennello. Well, this morning, one of the Congressmen asked one of the gentlemen from Texas, he says, have you got too many shrimp boats. Now, that is what is happening in our region. I cannot talk for the whole country. I cannot talk for the gulf. But in our region, we used to have *x* number of boats. I would imagine we had 75-80 boats. All of a sudden, here comes the Government guaranteed loan. Everybody goes running to put that—get that easy Government money—doctors, lawyers, Indian chiefs; everybody. There is nothing to it. Just go get you a captain. They have captains down in Virginia fishing that ain't been fishing a month. Every week you hear a new captain on a new boat.

Now, I say to you this: If I can make it, Captain Callis, Captain Carpenter, if we can make a good living, and we still do, why can't these brandnew boats do it? You gave them $700,000-$800,000 boats. I have a boat 30 years old.

Mr. Breaux. What are you fishing in your area?

Mr. Pennello. Sea bass, porgies, flounders. We sell them in Portsmouth, Va.

Mr. Breaux. Do you have any foreign vessels operating in your area.

Mr. Pennello. No. I have not seen a foreigner all winter, unless these gentlemen have.

Mr. Breaux. Do you have any foreigners exporting the same sort of fish you are catching to your area?

Mr. Pennello. I think the only thing the foreigners may be—there may be a little squid fishing done by the Italians and Spaniards, I think.

Mr. Breaux. You don't do any squid fishing, yourself?

Mr. Pennello. No, I do not.

Mr. Breaux. And you sell your product in the United States?

Mr. Pennello. Yes, sir, I do.

Mr. Breaux. You just pointed out three conditions that are different in your area from perhaps the Northwest or the west coast or the gulf. You don't compete with foreigners for the fishing. You don't compete with foreigners on imports. And you don't have to sell your fish overseas. Now, if you had those three problems in your area, do you think you would have the same story?

Mr. Pennello. I don't think any region has the same story. I have been listening to people from all over the country here this morning. I have heard things this morning I didn't even—I didn't imagine was happening.

Mr. Breaux. That is the difference. I am not trying to be critical. The point I am making is that you have a different situation in your area. It may be that is part of their problem, and not just because it is doctors and lawyers who decide to get into the fishing business. I realize that is something that has happened, and probably should not have happened.

Mr. **Pennello**. This is the point I was stressing. These people are professional people. They are making their wages every year in whatever profession they are pursuing. Us three here, and this gentleman, we are just plain old fishermen.

Mr. **Breaux**. If we look at the group of Texas people sitting out there, I don't think there is a doctor or lawyer in that group. Look at the people from the Northwest that just testified; the same thing.

Mr. **Pennello**. Congressman, I don't say that. I said I know of some cases in our area. I am not talking about the people from Texas. I never seen those people before. I didn't know the conditions in that part of the country until I got here.

Mr. **Breaux**. I am not being critical. I am just trying to lay out the situation. I agree with your first point. The basic point is perhaps because of some programs we have had, we have encouraged people to get into the business that shouldn't have been there in the first place.

Mr. **Pennello**. Could I ask you one, sir? How do you think the $6 million moratorium—however, do you think that would go to try to alleviate this problem?

Mr. **Breaux**. Almost negligible. But if we increase the fees on the foreign fishermen and add to that, you could generate about $45 million the first year, and that would start to begin to be a help.

Mr. **Pennello**. I see your point, increasing the fees and all that. But these boats, these people, they are going to have a hard time making it, because they haven't got experienced people in them. Now, your program said you had to have a man with 3 to 5 years' earnings. But I can tell you this. They are not there.

Mr. **Breaux**. How about making them eligible if that is their principal line of business?

Mr. **Pennello**. I think if that program, the way it was, Government-guaranteed loan, if you had a man with 5 years' experience to go into a boat, I think it would be a wonderful investment for investors. Up in Gloucester, Mass., when they built the boat, they found the captain first. Then they went and looked for the investors. First, they needed the man.

Mr. **Breaux**. I agree. There has been some slack apparently in how it has been run.

Thank you.

Mr. Forsythe?

Mr. **Forsythe**. Thank you, Mr. Chairman.

Captain, you say you do not have a problem with foreign fishermen. In 1975, before the 200-mile, did you have foreign fishermen on your shores down there?

Mr. **Pennello**. We had prior to the 200-mile limit; we had some down there; yes, sir.

Mr. **Forsythe**. And apparently there have been no licenses granted in your area for foreign fishing.

Mr. **Pennello**. Congressman, I don't know what has been done in that respect. I see one vaguely once in a while. And I hear somebody say it. We did have them down there prior to the 200-mile limit.

Mr. **Forsythe**. That is one place it has worked, then.

Mr. PENNELLO. Yes, it worked good. That is a seasonable thing, too, off the Virginia coast.

Mr. CALLIS. They were mostly after mackerel and squid. They caught the mackerel down to where it was not feasible for them to work on it any more.

Mr. FORSYTHE. Well, it just further confirms that in different areas around our coast, there are different problems. I am very happy that you are not having the same kind of problem that you heard about here today in other areas of the country. I would agree with some of the things you have pointed out. If investments are made with Government-supported loans to inexperienced operators, a lot of them are not going to make it, because you are right; it takes a fisherman first to fish, not a boat.

Mr. PENNELLO. I think that would be just putting in money after bad. This is my opinion now.

Mr. FORSYTHE. I get that one pretty clear.

Mr. CALLIS. My opinion is if a boat cannot pay—the payment on the boat is one of the smallest bills the boat has. They have the maintenance, the insurance. If they cannot make a payment, I cannot see how making a payment for them is going to help them.

Mr. FORSYTHE. I think it is true. It does raise, when you look at it from this side of the table, the problems of limited access arrangements which are difficult in any case, and, of course, it is true that the 200-mile bill had problems that we knew it wasn't designed to be just an embargo of all foreign fishing within 200 miles. It was to manage a fishery, and to try and make sure that the fisheries were able to come back and were not depleted. Apparently in your area it has worked out at least reasonably well. In other areas the fisheries were so depleted that the American fisherman has not had a way to really make it because of the depletion in the stocks in that region.

I think you get to New England, the scallops, and that is probably one of the major problems there. And it is true you can move around and find other things. I happen to be very familiar with the surf clam fishery problem, which has moved down into the Portsmouth area, off the New Jersey coast, up in the New England area, until they have cleaned out almost every stock on the east coast before it was named as depleted. A lot of investment was made that shouldn't have been made in that fishery.

Mr. PENNELLO. Congressman, they were going to get a scallop plan for the last couple of years, national fisheries were, but the people fishing the scallop boats were the ones fighting it the most. They destroyed themselves.

Mr. FORSYTHE. Well, I think we all do that. We play a good thing right down into the ground. Don't try Atlantic City. That casino will get you, too.

Thank you very much.

Mr. BREAUX. Gentlemen, we thank you very much. I think you have raised some interesting points, some that have bothered me in the past. I appreciate your telling us about it in the hearing. It has been very helpful. Thank you very much.

We would next like to welcome Mr. David Burney, representing the U.S. Tuna Foundation. Dave, we are pleased to receive your testimony.

STATEMENT OF DAVID BURNEY, COUNSEL, U.S. TUNA ASSOCIATION, ACCOMPANIED BY GEORGE STEELE, WASHINGTON REPRESENTATIVE, AMERICAN TUNA BOAT ASSOCIATION, AND JOHN MULLIGAN, PRESIDENT, TUNA RESEARCH FOUNDATION

Mr. **Burney**. Mr. Chairman, I have with me Mr. George Steele, Washington representative of the American Tuna Boat Association, and Mr. John Mulligan, president of the Tuna Research Foundation. I would point out in addition, Mr. Rudy Marillo was here, who is assistant to the port director for the city of San Diego Port Authority, who I understand will be submitting some testimony in writing, or statement for the record, at a later date.

I have prepared written testimony. I would request that that be made a part of the record.

Mr. **Breaux**. Without objection, your entire statement will be made part of the record.

[The information follows:]

Statement of David G. Burney, Counsel
UNITED STATES TUNA FOUNDATION

Mr. Chairman and members of the House Subcommittee of Fisheries and Wildlife Conservation and the Environment, on behalf of the United States Tuna Foundation, we welcome this opportunity to comment on H.R. 7039, the American Fisheries Promotion Act.

Appearing with me today are John Mulligan, President of the Tuna Research Foundation and Mr. George Steele, Washington representative of the American Tunaboat Association.

We wish to express our appreciation to you, Mr. Chairman, and members of the Subcommittee staff for developing in the proposed legislation a comprehensive fisheries development and promotion format. It is apparent that this Subcommittee has tried to accommodate the total needs of our complex commercial fisheries.

We endorse the approach taken in H.R. 7039 with respect to amending the Saltonstall-Kennedy Act. We have long held the belief that the Saltonstall-Kennedy program can and should play a vital role in the future development and enhancement of United States fisheries. The reaffirmation by this Subcommittee of the original intent of the Saltonstall-Kennedy Act is both necessary and desirable.

There are certain substantive changes in the proposed amendments to the Saltonstall-Kennedy Act that we respectfully ask this Subcommittee to consider. These changes were discussed at the recently concluded National Fisheries Policy Conference, attended by various segments of the United States commercial fishing industry. The changes were presented to members of the Subcommittee staff who attended the conference. We do not believe it is necessary to elaborate on the requested changes in this testimony but would be happy to answer any questions in that regard.

The U.S. tuna industry supports the proposed amendments to the Capital Construction Fund (CCF) and the Title XI Loan Guarantee Program. The CCF program, which provides self financing through a tax deferral mechanism, will help stimulate the expansion of essential shoreside facilities, especially in areas where the potential for developing underutilized species prevails. In addition we emphasize that the Loan Guarantee Program has been successful at minimal cost to the United States government. It is important to note that the program for fishing vessels presently operates with an annual surplus. We endorse the extension of the Loan Guarantee Program to shoreside facilities.

As you are aware Mr. Chairman, we have expressed concern over certain proposed amendments to the FCMA. Our concern stems from a recognition of the fact that in order to insure full development and utilization of a fishery there must be not only the capability to harvest, but also the capability to process and market the particular resource. The three components are interdependent and if any one of the three is inoperative, full development and utilization is slowed or retarded.

Furthermore, the rate of fisheries development can be expected to increase geometrically because of the complexity and interdependence of harvesting, processing, and marketing. That is, development can be expected to begin modestly, which we have seen since the implementation of the FCMA, but will increase in rate as time passes.

The proposed amendments to the FCMA may very well preclude the capability to process and market certain fishery resources taken by U.S. harvestors within our U.S. fishery conservation zone. This concern is raised with full knowledge that foreign markets are vital to future U.S. fishery development.

It is clear that American fishermen are already given an absolute preference to all fishery resources found within our FCZ. It is equally clear that further expansion of the U.S. share of those resources is predicated on development of domestic and foreign markets. The proposed phase-out provision could well preclude access to present foreign markets and could inhibit the ability to create new foreign markets. It is vital that we retain the flexibility to utilize our fishery resources in such a manner that insures that the U.S. harvestor has maximum access to necessary markets. Without a market for a product, the mere ability to harvest the product is invalidated.

We fully appreciate the frustration that has been experienced over the failure to successfully establish markets in certain countries that have been granted access to our FCZ. We have, however, been informed by members of your staff that they have been encouraged by a recently perceived awareness on the part of the Department of State that access to our FCZ must be used as inducement to permit U.S. participation in foreign markets.

It is our opinion that the FCMA, as presently worded, already contains the necessary authority to implement most of the intent expressed in the proposed amendments to the FCMA. The amendments could remove the flexibility which is necessary to continue our efforts to negotiate access to vital markets. While the amendments may be ultimately desirable if further negotiations prove fruitless, we believe that additional time is appropriate.

With or without an amendment to the FCMA, the questions of increased license fees and increased observor programs, should be addressed by this Administration. Certainly the license fees should be commensurate with those imposed by other countries. Similarly, the observor program should be maintained at an effective level at no cost to the U.S. government.

Many amendments to the FCMA have been discussed since its enactment in 1976. It is still a relatively new law. Each possible change to the Act should be carefully analyzed to determine whether or not it in fact will have the effect of furthering the total interest of American fisheries.

We hope that our comments will be received in the spirit that they are intended. We will continue to work with this Subcommittee towards our mutual goal of maintaining our U.S. commercial fisheries at maximum potential.

Mr. **Burney**. Thank you.

What I would like to say, Mr. Chairman, is that in addition to some of the comments that we have made in our written statement, I would like to go on record so that this committee is aware. We do support the loan fund. We understand the concerns that have been expressed earlier by the shrimp industry in particular. We think that it is necessary during what we would consider to be a transition period that certain moneys be made available.

We sit in kind of similar circumstances, in that up until recently we were both distant water fisheries. We understand their concerns. We know what happens when you are a distant water fishery. And all of a sudden you lose total access. And what we are going through here is a transition period.

I think we have to be very supportive of U.S. fisheries, regardless of where they are located. Some of the things I have heard earlier that I would like to comment on, with the chairman's indulgence, concern some of the industry problems that have been expressed. And it seems to me that they keep coming back to two main things—that being the rising cost of fuel and the high interest rates that are now being paid. There have been other concerns expressed as well. But when you really get right down to it, we are going through a real transition period in all of the U.S. fisheries, not just the shrimp industry.

I think one other thing that is important to note, and I think it was touched on with the last witnesses, is the fact that it is very difficult to generalize about fishery development legislation, what is needed for everyone in general. If you look to each particular area of the country, they may share some concerns, and then there may be other concerns that are more important to one fishery than they are to another. I think what the Chairman has tried to do in this committee is try to come up with a comprehensive piece of legislation that would at least recognize the concerns of all of the various sectors of the commercial fishing industry. I think that is very important. Our hat is off to you in that regard.

I think one of the things, also, that I hope you will consider as you move forward with your legislation, and that is the difference in discussing traditional fisheries, and discussing underutilized fisheries. For a long time, at least since I have been back in Washington, I have heard the Government constantly talk about developing our underutilized species. And I think one of the concerns that I have always had since I have been back here, they forget in many instances that there are traditional fisheries that have to be enhanced along the way as well. And this goes to really the thrust of our written testimony, which discusses the three elements of developing any fishery. You cannot just look at the harvesting sector. You have to look at the ability to process what you harvest. You have to look at the ability to market what you harvest and process. It is kind of a chicken-or-egg situation.

Where do you start? Do you find a particular species, and you say, yes, we have the capacity to harvest, so let's go ahead and harvest it, and then we will look for somebody to process it, or do you start at the processing sector and say, yes, we have the capacity to harvest, so we will—the capacity to process—so we will go out and find somebody to harvest the resource.

Probably the real key is you have got to have a market. If you have a market, you are going to find somebody that is interested in both processing and harvesting. But you have to have all three. And you cannot leave one of the elements out.

That is why, Mr. Chairman, in the last group of witnesses you asked some very astute questions. Do you have to market your fish in foreign markets, or can you market your fish in the United States? It is one thing to tell somebody, yes, we have the markets in the United States so if we remove the foreign competition we are going to be in a better position to serve that domestic market.

The whole purpose behind the TALF was to open up the foreign markets which we all thought were necessary. We agree with this committee. We agree with anybody that wants to testify here at this session it has been a dismal failure. There has been an absolute failure to use the TALF's as they were intended. I hear many conversations about the fact, well, we need Japan's support with Iran, for instance, in economic sanctions; therefore, if they get a little bit of fish, we have to look at that as a tradeoff in the best interests of the United States. That may very well be true. But there is a genuine necessity to use these TALF's to help make these foreign markets available to us.

I have cautioned this committee that I am not so sure that we should just write this off as a lost cause. The FCMA is relatively new. It was enacted in 1976. We have only had the good part of 3 years to test it. I think this committee has focused in on the fact that it has been a dismal failure in its effort to open the foreign markets, although some are starting to open. We talked about a geometric progression. Once you start opening, it escalates, and it goes on from there.

I am just not sure whether it is the time for the best interests of all commercial fisheries in this country to boot the foreign fleets out before we have had the opportunity fully to explore and make that genuine effort to develop these foreign markets.

Each group that comes up here would have to state how necessary those foreign markets are. I know in representing the tuna industry that we feel we have the best tuna fishermen in the world in this country. And yet at the same time, they are only as good as people there to process the product, and they are only as good as the public demand for the product and their ability to market it. Without all three of those, they have nothing. That certainly has been recognized.

Greg Chatman testified earlier. I have had the occasion to talk to him over the last several days at length about our different opinions on this one subject, on whether it is best to boot the foreign people out at this particular time, then try to develop the markets.

Congressman Forsythe asked the question earlier, if they are out of here, do they still have to come to us for the product, or are there alternative products they can get outside of our 200 miles. I think it is a very important question.

I am not satisfied, and I don't think if you really analyzed this, that you would find that the Japanese are 100-percent dependent on buying fish from this country. There are alternative fisheries that they could attempt to develop and get the resource. This is an important fishery for them. And I think what is necessary is to get this administration to come forward and say we are going to use the TALF as it was intended; we are going to hold it out as the carrot, and that is it. You just don't get access.

As Greg said earlier, the idea wasn't to give it away, and that should not be done at the present time. The idea was to get something in return. And the tradeoff was supposed to be in fisheries. It was not supposed to be outside of fisheries. It hasn't worked. But that does not mean it still cannot be effective. You are only as good as the people leading the corps. If you have people up there that are willing to sit down and say, well, I just do not want to really jeopardize the relationship we have with this particular country, so let us give it away, then we are not doing what we intended.

I think this committee recently, through a very vigorous oversight, has brought this to the attention of the State Department, and at least we have been told that there is a perceived change of attitude now in the State Department in this regard—certainly if they feel that the alternative is to lose that flexibility entirely.

On the observer question, I might add that if this committee is worried about finding observers, we have a number of observers attached to our vessels that we are willing to give you tomorrow, and you can put them on these foreign boats overnight. They are excellent people. They don't like to go away too long, so they like to get off the tuna boats, where they can come in at least once a week. And I will give you the names and addresses, and you can have them.

I have nothing further.

That concludes our oral presentation.

Mr. BREAUX. Dave, how do we develop the American fishing industry? In our 200-mile zone we are catching about 33 percent of the total harvest by volume, 67 percent of the fish in our zone are caught by foreigners. How do we expand our percentage as long as the foreigners have what seems to amount to an absolute right to continue to fish within our area, and there is no schedule of when they are going to be out?

Mr. BURNEY. It goes back to what I really believe is a breakdown in the program. It seems to me that something has to be done to convince the administration that the intent was not to give the fish away. That, in return for the granting of those TALF's, they are supposed to be gaining access to markets.

Mr. BREAUX. What, other than legislation—and I would be willing to do it—will convince this administration or the previous administration that we ought to do that?

Mr. BURNEY. I think you have already gone a long way in that regard by just introducing this legislation.

Mr. BREAUX. Would not it be more effective if we passed it?

Mr. BURNEY. Again, I think anything you can pass—I do not think, to be very frank with you—I honestly do not believe the passage of this particular piece of legislation, the phaseout provision that you have, is going to do anything more than bring the foreigners back into the picture, again holding out on the market so that you cannot develop your fishery.

I think you need both tools—the threat of the phaseout, if they don't cooperate, and also the granting of TALF's in limited instances to help push your way into those markets. I think it takes a combination. I think it takes flexibility. But more than anything else, it takes the right people using these tools. And that is what—we go through this all the time. And you know this—in trying to deal with our Government, to help us out, as a distant water fishery—we become frustrated constantly in this regard.

Mr. **Breaux**. I recognize your particular industry has problems that are different, and that is really the problem with the industry. Every industry and every segment of it has different problems. You, as a representative of a distant water fisherman, have a particularly different set of concerns. I appreciate those concerns.

This committee or this Congress doesn't want to do anything to destroy or upset the already very shaky condition of the U.S. tuna industry. But I take it from the testimony with regard to this bill that you would oppose the phaseout.

Mr. **Burney**. No. I don't want you to misread what we are saying. What we have said is we think this should be closely analyzed. We are supportive of anything we think is in the best interests of the U.S. commercial fisheries. There is no way I want you to take this as opposition to any part of this bill.

I am not convinced, my industry is not convinced, that the phaseout in and of itself is in the best interests. It has nothing to do with the impact that it is going to have on our industry, because it won't have an impact on our industry. It is not a concern to us one way or the other, other than the fact we would like to see the TALF's work the way they were intended.

I personally would like to see the State Department and others charged with the responsibility for using those TALF's up here once every month, and I want to know what they are doing. What progress have they made? What have they given away, and what do they get in return? Since you have taken over, you have done this. I think we need more of it.

Mr. **Breaux**. I guess what I am trying to figure out is, you would like us to give more consideration, and I guess study, to the phaseout and the effect.

Mr. **Burney**. Yes. I would like you to really analyze this closely, to see whether the flexibility isn't necessary to develop those markets. I think you have to answer the first question, do we need foreign markets? Do we have the markets available to us in the United States to market these products that we would have available to us if we were to boot out the foreigners?

Mr. **Breaux**. OK. What is your position with regard to TALFF, then, being tied to the development of foreign markets?

Mr. **Burney**. I think that the TALF, if we are going to gain access to many of these foreign markets, it is going to take the combination of the two things—the TALF can be used, but just as importantly it can be withheld. And I think that that is how this should operate.

Mr. **Breaux**. Do you support linking the TALF to the access to foreign markets in the legislation?

Mr. **Burney**. Yes. I think that that is the intent of the bill. What we were saying earlier, and what I have expressed to this committee before, is the fact that the amendments that you have proposed, and I agree, I think all of them, it was necessary we have this conversation about them. It is there. What you have done is reemphasized the congressional intent that it is not being used the way you intended. And I think that has had a very strong effect on this administration. It is there. It just has not been utilized the way it should. And I think that they should now see the light of day. And they better start utilizing them correctly.

Mr. Breaux. Suppose we could just move ourselves up a year from now, a year later, and we found the situation just as it is today. Would you then support legislatively spelling out what we are trying to do?

Mr. Burney. I think if a year from today we were sitting exactly where we are now, and if the rest of the commercial fishing industry came in before this committee and said that their plight was the same, and it certainly was not caused by interest rates or fuel, but by the fact what they consider foreign competition, then I would say yes, this administration has had every opportunity to correct the situation, and they have not done it.

Mr. Breaux. They tell me that—they meaning NMFS—the price that we charge the foreigners for the privilege to fish within our zone is way out of proportion to the fees that our U.S. fishermen have to pay when fishing in foreign waters.

What is your position on the increase in the foreign fees and the figure that we suggested being, what, 10 percent of vessel price of the catch?

Mr. Burney. I take no position on the 10 percent. I have said in the testimony that we certainly support that our fees be commensurate with what other nations are charging. So, this goes into the loan fund again concept.

I think the loan fund is important. I have some concern over the length of time of the loan fund. I think we have in the present legislation that it expires in 3 years. It would be nice to think that we can solve all the ills within a 3-year period.

I am not so sure that that is possible. I think that the shrimp industry is a very proud industry. If this is where we are looking at initially, let's give them a chance to get on their feet. If it is 5 years, 10 years, I do not care what it is. You do not want to lose them.

Let us make sure we do not cut something off and all of a sudden we come back at the end of 3 years when we have something moving in the right direction, but we have a different administration, or more difficulties in continuing much needed funding. I do not see this as a short-term problem. I see it as a long-term problem.

Mr. Breaux. NMFS also testified, as I indicated earlier, between 25- and 65-percent underreporting exists with regard to the foreigners in our zone. Our method of trying to correct that underreporting is to have 100-percent observer program. What is your position on that?

Mr. Burney. That is where I think observers belong, on foreign vessels. I don't think they belong on our vessels.

Mr. Breaux. So you support that portion?

Mr. Burney. We support a meaningful observer program. I would not be in a position to tell you what that is. I just don't have the slightest idea.

Mr. **Breaux**. In other words, whether it is 75 percent, 100 percent, you support the observers on the foreign vessels.

Mr. **Burney**. Again, if it is a problem in reporting which has been brought out to this committee, and if you are going to have an observer program, then it should be a meaningful observer program. I just don't know enough about it.

Mr. **Breaux**. Well, bear in mind, we have had this discussion many, many times. I don't want any legislation to do damage to any segment of the U.S. fishing industry.

The tuna industry is a very important part of the U.S. fishing industry. Sometimes your goals and situations I guess conflict with those in coastal fishing operation.

Our job is to try and balance those concerns and come out with something everyone can live with. That is what we are trying to do.

Mr. **Burney**. You have been fair to us. All we want to do is survive.

Mr. **Breaux**. Mr. Forsythe?

Mr. **Forsythe**. Thank you, Mr. Chairman.

Dave, we again thank you for your testimony. The chairman has left me one of my questions.

You indicated support for changes to the S-K act that were discussed in the National Fisheries Policy Conference. I would like to be specific with respect to just one point.

At the conference it was recommended that funds earmarked for the U.S. industry be distributed to industry projects approved by an industry review panel.

Do you specifically endorse that proposal and, if so, are you advocating there be a series of regional review boards, or should there be one national review board?

In addition, what qualifications should members of the review board have. How would you handle the problem of business competitors reviewing each other's ideas and proposals?

Mr. **Burney**. You answered that question for me with your last comment. I do not support that concept. I recognize the concerns that some have expressed. I believe that we already have enough bureaucracies without creating another layer of it to review programs or projects.

I have felt all along that what we need is the assurance that there are going to be certain moneys made available. Certainly with the projected increase in Saltonstall-Kennedy moneys that will be available, it seems to me all segments of the commercial fishing industry have an opportunity to propose programs that are meaningful.

I think from that point forward, the pressure has to be applied, both on the administration and certainly through their congressional representatives. But to try to have industry people pass on industry programs, it really does create a problem.

I will help you if you help me. I am not sure that is what we really want. I think what we want to assure is that there are necessary moneys available. From that point forward, I have a great deal of confidence in the fishing industry.

I think that they will propose meaningful projects. Each section of the country may feel theirs is the most important. But now we have some money available. We are not talking about $5 million as we were 3 years ago. If this bill is successful, we are going to have enough money available that industry will take the time to make sure they are putting forward very viable programs.

One thing I would like to clarify. Comments that were given at the National Fisheries Policy Conference were not necessarily the official position of the conference or anyone there. These were just things that we passed on for review.

Mr. FORSYTHE. I was impressed with your point that somewhat over 3 years is hardly a full period to test legislation. What would you believe it would take us so we can feel we are up to speed on it? I don't think we will ever be satisfied. Do you think we need a couple of more years?

Mr. BURNEY. I really do. The problem is there were high expectations when that law was passed. There is just no question in my mind, even the most pessimistic of people still believe this was going to go a long way to solve some of the concerns.

On top of that, I don't think anyone conceived back at that time that we were going to end up with the fuel situation we are in today, the high interests, the runaway inflation that we have right now. These have compounded the concerns.

You cannot just push it all back on the FCMA. I think we not only have to see how it is working, but we have to tinker with it a little bit, without trying to change it substantively.

If we feel that things are not being done the way they were intended, then through oversight we have to insure that they are being done. If they still don't work, that is the time to make the change.

Mr. FORSYTHE. Well, I appreciate that comment because I think I have felt that way for a long time. We do need support to keep from trying to hang the whole world around what I think was a great idea.

I can fully remember the day that regional councils gathered across the river and both Mr. Leggett and I pointed out that this was only the first step, and that there were a lot of hard rows ahead.

I think that is true. I think a lot of the regional councils are just beginning to become effective in terms of their understanding of the problems and how to deal with them. Hopefully together we can make it work.

Thank you.

Thank you, Mr. Chairman.

Mr. BREAUX. Gentlemen, we thank you very much.

Our final witness for today's session will be Mr. Lee Weddig, representative of the National Fishmeal and Oil Association.

We welcome you back to the subcommittee.

STATEMENT OF LEE WEDDIG, REPRESENTATIVE, NATIONAL FISHMEAL AND OIL ASSOCIATION

Mr. WEDDIG. Thank you, Mr. Chairman.

I am here today, as you mentioned, speaking on behalf of the National Fishmeal and Oil Association.

Mr. BREAUX. But not for the National Fisheries Institute?

Mr. **Weddig**. That is correct. The NFMOA is a division of the Institute. It has developed its own position.

Mr. **Breaux**. We will receive that, I think, at tomorrow's hearing.

Mr. **Weddig**. Right.

Mr. **Breaux**. Today is National Fishmeal and Oil Association.

Mr. **Weddig**. Right.

As you know, Mr. Chairman, the NFMOA represents the Nation's menhaden industry. Menhaden is not one of your ordinary household words. Nonetheless, menhaden represents 42 percent of the Nation's commercial fish landings, amounting to 2.6 billion pounds of product in 1979.

The catch is processed into fishmeal, fish oil, and condensed fish solubles. Last year the industry achieved a record output of 281,000 tons of fishmeal, which is used as a high protein portion of poultry and animal feeds. The fish oil processed from menhaden is used as an ingredient of margarine in Europe and for industrial purposes.

As a point of interest, Mr. Chairman, the Nation's leading port in terms of landings is Cameron, La., due mainly to the menhaden industry. Menhaden is caught in the mid- and South Atlantic as well as in the Gulf of Mexico.

Menhaden is a coastal fishery and fully utilized by the domestic industry. Much of the catch is taken within 3 miles. As a result, we are not affected directly by foreign fishing and so do not feel it appropriate to comment specifically on the issues of phaseout, foreign fishing fees, trade barriers or observers.

The NFMOA does support the extension of the Capital Construction Fund and the loan guarantee programs to shoreside facilities, and the restatement of the Saltonstall-Kennedy program.

NFMOA does not object to the fisheries loan program but does quarrel with the stated purpose of preventing mortgage loan defaults.

As mentioned earlier, the menhaden industry is by far our largest fishery in tonnage, but costs far less per pound than other fisheries.

A major challenge facing the industry is to upgrade product usage to enable a higher return. This is essential if the industry is to cope with escalating harvesting and processing costs.

A menhaden is composed of 80-percent water to begin with. You have to get that water out of the fish before you have your dried product. That takes a lot of fuel. So energy costs are very serious for the fish meal business. We expect they are going to be with us for a very long time.

The products that are now made from menhaden are relatively low cost, in that they are used as ingredients in food stuffs and components for industrial products. So the challenge facing us in addition to increasing efficiency in the harvesting and processing end is to create products that will be able to be sold for more money than those that are presently made from the product.

One of our objectives that we are currently working on as an association is to obtain FDA permission to use menhaden oil as a food additive in the United States. Presently fish oil can be used as food for humans in Europe, and much of the output of fish oil from the Gulf of Mexico is exported to Europe for that purpose.

Presently, the Food and Drug Administration does not allow that in the United States. We have embarked through the National Marine Fisheries Service, with their help, and using Saltonstall-Kennedy funds on a 3-year research program which involves the extensive animal feeding tests that are required to obtain a food additive permission in the United States.

This is a series of tests that involve feeding rats over a period of time, then mice, and then animals of higher origin. Throughout that time, the costs keep mounting. It is estimated this will cost us about $1 million to get this additive petition research finished. As I said, it will take over 3 years.

Mr. **Breaux**. A cost to the industry or their S-K?

Mr. **Weddig**. A combination. At this point in time, the initial part of that research is funded with an S-K grant, about $600,000 altogether. That is involved in this. The research is just getting started. That is the rat study.

Mr. **Breaux**. They use the menhaden oil in Europe for human consumption?

Mr. **Weddig**. That is correct.

Mr. **Breaux**. Do you know if FDA, in the study they are going to be doing, do we consider the results in Europe or do we start from scratch with an independent study?

Mr. **Weddig**. I don't think they have too much choice in the matter, Mr. Chairman. Recently when Congress went over the whole procedure for obtaining food additive permission, it prescribed rather carefully the type of research that had to be conducted in this country.

Those chemicals—I shouldn't call them chemicals—those foodstuffs on the list, generally regarded as a safe list, which included such things as salt and so forth, did not have to go through the battery of tests. But anything else that would be classified as an additive has to go through the series of tests.

There is very strong feeling in the food industry this will stifle innovation on certain additive type materials because it is so costly. You cannot go into it unless you have a long-term prospect for tremendous sales.

So, I think we are going to see a stifling of innovation in the food processing industry over the next few decades because of these requirements.

But fortunately for fish oil, which has been proven as a safe food additive through years of use in Europe, we can go forward with the help of S-K and get these tests underway, and we hope to a successful conclusion.

If this were to happen, then we would have greater opportunity to increase the value of the output of the menhaden industry. Other research would be anticipated also to upgrade the other types of product we get from menhaden.

It is very conceivable that in the future the fish itself can be used for human consumption in proper product form. Research will be needed there as well.

For that reason, we are supporting the S-K program. We think our industry is greatly dependent on research over the coming years, and we see S-K as a way of helping to achieve those results.

The second part of the bill that we think is so important is the capital construction fund and the loan guarantee extension to shoreside. As research is proven out, you can show you can upgrade the product quality, it is going to require tremendous investment in plant facilities in order to convert, to be able to produce it.

Presently the plants and the vessels are geared toward industrial type production and certain levels of handling of quality, refrigeration, and so forth are used.

If we get into food grade type products for direct consumption, there will have to be improvements in both the vessels and in the shoreside facilities in order to make use of the research that we hope comes out of the S-K program.

So, that is where we think the Capital Construction Fund and the loan guarantee extension shoreside will be very helpful to this industry.

Finally, we anticipate that there will be considerable investment required in 1984 to meet whatever new requirements come out of the effluent guideline work that is presently underway at EPA, the conventional technology that will be hitting the industry in a couple of years.

We would advocate that CCF especially could be used for that purpose. It is a capital requirement that will be facing all of the fish industry, and especially the menhaden business. So, we would look forward to being able to use the CCF to meet these federal requirements in effluent clean-up procedures.

So, Mr. Chairman, we are very much in support of the program that you have outlined in these three areas—CCF, loan guarantee, and S-K—and we would advocate rapid movement forward on this bill.

Even though this resource is fully utilized, in one sense it is also a developing industry. We are catching all the fish and we are using them.

But we have to develop to make better use and more profitable use of these products in the coming years so that we can continue to meet the new and the greater expenses of catching and processing that we see coming along with the energy crisis and so on that hits our industry very hard.

So, Mr. Chairman, we support your bill, and we urge its rapid movement.

Thank you, sir.

[The statement of Mr. Weddig follows:]

STATEMENT OF LEE J. WEDDIG

Mr. Chairman, I am Lee Weddig, speaking as Executive Director of the National Fish Meal and Oil Association.

The NFMOA represents the nation's menhaden industry. Menhaden is not one of your ordinary household words. Nonetheless, menhaden represents 42 percent of the nation's commercial fish landings, amounting to 2.6 billion pounds of product in 1979. The catch is processed into fish meal, fish oil, and condensed fish solubles. Last year the industry achieved a record output of 281,000 tons of fish meal, which is used as a high protein portion of poultry and animal feeds. The fish oil processed from menhaden is used as an ingredient of margarine in Europe and for industrial purposes.

As a point of interest, Mr. Chairman, the nation's leading port in terms of landings is Cameron, Louisiana, due mainly to the menhaden industry. Menhaden is caught in the mid and south Atlantic as well as in the Gulf of Mexico.

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The NFMOA does support the extension of Capital Construction Fund and the Loan Guarantee programs to shoreside facilities, and the restatement of the Saltonstall-Kennedy program. NFMOA does not object to the Fisheries Loan program but does quarrel with the stated purpose of preventing mortgage loan defaults.

As mentioned earlier, the menhaden industry is by far our largest fishery in tonnage, but costs far less per pound than other fisheries. A major challenge facing the industry is to upgrade product usage to enable a higher return. This is essential if the industry is to cope with escalating harvesting and processing costs.① With the exception of fish oil now exported to Europe, all of the industry's output is used in animal feed and industrial products.

One objective of the industry will be to obtain FDA permission for use of menhaden oil as a food additive in the United States. Another, of longer term, is to upgrade the other products for higher classification of use. These objectives require major investments in basic research.

Currently, Saltonstall-Kennedy funds are supporting the animal feeding research necessary to prove out a food additive petition. The program will extend over a three year period and cost in excess of $1 million. Thus, our industry, and the public, has a direct stake in the future of the S-K program. As additional specific research needs are identified in the search for upgraded product, the S-K program will undoubtedly be called into action again. We suggest that the matching requirements proposed in the bill be modified to enable matching at a minimum of 20% rather than 25% level. This is the current requirement and we see no reason for change.

Success in finding ways to upgrade product use will create major capital investment needs in both the harvest and process end of the business. The Capital Construction Fund and Loan Guarantee program will enhance the economic possibilities of such investment. Additional investment needs are anticipated to meet more extensive pollution control requirements.

Although the menhaden resource is fully utilized, in one sense it can be characterized as having the same needs as a developing fishery -- research and capital. Those needs are met by this bill and therefore supported by NFMOA. Thank you for the opportunity to comment.

Mr. BREAUX. Lee, I really don't have any questions. I think your position is clear. You don't have any position, I guess, with regard to any of the foreign issues because you are not affected.

Mr. WEDDIG. No, sir. We are a coastal fishery. We do not think it would be appropriate to comment on that. NFI will comment on that.

Mr. BREAUX. Also, as being a utilized species, the legislation, of course, certainly is eligible for those involved in a utilized industry such as the menhaden industry.

You are eligible certainly for the same CCF assistance, and S-K assistance, and anything else that we have as far as help to the industry is concerned.

Mr. Forsythe, any questions?

Mr. FORSYTHE. Than you, Mr. Chairman.

Thank you, Lee. That was a very good statement.

I would just like to have you expand on a couple of points.

On page 2 you say you do not object to the loan program but quarrel with the stated purpose of preventing mortgage loan defaults. I wonder if you could expand on that point.

Mr. WEDDIG. Yes, sir. The group does not feel that the Government should be in the business of preventing default on loans. On the other hand, they have no objection to a loan program that will assist a fishing vessel operator through a particularly rough time if there is opportunity for repayment.

It is a subtlety, and perhaps a matter of semantics, but they are much more comfortable with a program that says if this operator can obtain some money to help him get started on the season, make the necessary repairs, to buy the fuel, to get started, and it looks like he can then make out, and he would continue in business, that type of a loan is different from a loan that has an express statement, "We are going to help you prevent default on your mortgages."

It is a difference in intent. It almost is a difference between whether we expect it is going to be repaid or not.

Mr. **Forsythe**. Isn't that the point—preventing default would be helping the guy get through a rough period?

Mr. **Weddig**. Correct.

Mr. **Forsythe**. And so that your concern really is that it is a viable operation.

Mr. **Weddig**. That is basically the point.

Mr. **Forsythe**. And you indicate one of the purposes for which the S-K fund would be used is to develop upgraded product in the menhaden industry. I suppose you are talking about conversion into fish powders and so forth, a higher value product, that type of thing.

Mr. **Weddig**. Yes. There are several areas. The one that we did concentrate on was oil, which we can upgrade into this marketplace as opposed to just Europe, which would improve its viability.

There are other areas of higher grade feed stuffs that have yet to be explored. The main area where the product is used presently is in the poultry industry as a part of the poultry ration.

Well, there are other animal feeds that have a higher value than poultry feed. We would anticipate with the right kind of research eventually we might move into some of those areas, if we can show the actual nutritive value of the product, and then eventually into human food consumption as well.

Mr. **Forsythe**. Human food——

Mr. **Weddig**. There are other areas to explore as well as human food.

Mr. **Forsythe**. OK. Thank you. Thank you very much.

Mr. **Breaux**. Lee, the committee thanks you very much for your testimony this afternoon on behalf of the fishmeal industry, and we look forward to working with that industry on the development of the legislation.

Mr. **Weddig**. Thank you.

Mr. **Breaux**. With that, the committee has now heard all of our witnesses for today. We will continue this process tomorrow, at which time the committee begins our session at 9:30 in the morning in this room to receive final witnesses on the American Fisheries Promotion Act.

With that, the subcommittee will be in recess until tomorrow.

[Whereupon, at 5:04 p.m. the subcommittee recessed, to reconvene on Tuesday, May 20, 1980, at 9:30 a.m.]

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AMERICAN FISHERIES PROMOTION

TUESDAY, MAY 20, 1980

House of Representatives, Subcommittee on Fisheries, Wildlife Conservation and the Environment, of the Merchant Marine and Fisheries Committee,
Washington, D.C.

The subcommittee met, pursuant to recess, in room 1334, Longworth House Office Building, at 9:40 a.m., the Honorable John Breaux (chairman of the subcommittee) presiding.

Present: Representatives Breaux, de la Garza, Hutto, Wyatt, and Hughes, Forsythe, Trible, and Pritchard.

Staff Present: G. Wayne Smith, Theodore Kronmiller, Ned P. Everett, George J. Mannina, Jr., and Norma Moses.

Mr. **Breaux**. The subcommittee will please be in order.

This morning we will have our second day of hearings this week on the American Fisheries Promotion Act, and are pleased to receive a number of Members of the House, our colleagues, who are interested in testifying on various aspects of the legislation.

I am particularly pleased to welcome our good friend and colleague, who also happens to be a ranking member of this committee, the Honorable Kika de la Garza; the chairman of the Science and Technology Committee, the Honorable Don Fuqua of Florida; and our good friend and former member of this committee, who works with us on a number of important legislative matters, the Honorable Bob Eckhardt.

Gentlemen, we welcome all of you.

STATEMENT OF HON. E (KIKA) de la GARZA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. **de la Garza**. Mr. Chairman, yes, I regret that I am going to ask to impose on you and the committee and the possible imposition also on Chairman Fuqua, but I have to chair a 10 o'clock meeting of the Committee on Agriculture and, also I have a 9:45 meeting with the Secretary of the Interior. I certainly would appreciate it if you would hear me.

Mr. **Breaux**. We will allow you to summarize your testimony.

Mr. **de la Garza**. Yes; I will be very happy to.

Mr. Chairman, first, I wish to express my support for the intent of the American Fisheries Promotion Act now under consideration. The fishing industry in my area is in very difficult circumstances for a combination of events; the oil spill, bad weather, the closure of the Mexican waters.

You might remember how you and I fought the battles here in what would eventually be the closing of Mexican waters. What you and I warned was to happen has happened, regretfully. There is very little that we can do at this time but it does compound the problem that we find ourselves in in our area.

Mr. Chairman, I support the intent and thrust of the legislation before us but I come to you with the problem that what the fishing industry needs our help both now and in the future—I am afraid that the long-term thrust of this legislation, even though I support it and I will work with you, is not going to be of very much assistance to those that need it now.

For example, in helping those that are in default on their loans—we should be helping others so that they won't be in default. I also would like to summarize, if I might, Mr. Chairman, that although I support the intention of the Fisheries Promotion Act, I do not think it goes far enough to help the fishing industry through its current crisis.

The revitalization of the loan program is a good idea but it is not anywhere near the comprehensive type of aid program which the fishing industry needs. The Saltonstall-Kennedy amendments may set the fishing industry on the course to greater profitability in the future but it does not do anything for the present.

The amendments to the FCMA, as proposed in section 301 of the bill, are designed to enhance the future profitability of the industry by closing American waters to foreign fishermen. Given a strong fishing industry and the right conditions, this may come about. Given the current state of the fishing industry, it may never take effect because the industry may not be able to take advantage of its provisions.

What we desperately need is a program to tide the industry through the present hard times so that we can all benefit from the provisions of this bill, which will take years to implement.

We must provide some alternative to forcing the boat owners to tie their boats to the docks and letting the crews go on welfare.

With that, Mr. Chairman, you have a summary of my brief comments. And, again, I repeat very strongly, I support the thrust of your legislation, I endorse it, but, I guess, like many who will testify and who testified yesterday, we need some assistance now.

Mr. **Breaux**. Thank you very much, Kika, for your statement.

Would you be willing to consider some kind of countervailing duties or tariffs on imported Mexican shrimp? The people that testified yesterday talked about 50 percent of our shrimp coming from Mexico and, of course, that supplies a need for the consumer in this country but they also point out that Mexican shrimp tend to flood the market with imported shrimp.

Mr. **de la Garza**. I think that is one of the areas we have to look at, Mr. Chairman. The cost of fuel is such that it is a tremendous burden on all the fishing industry. In our area I would not want to single out Mexican shrimp because that's not the majority of the imported shrimp that comes into the United States, as you know.

But, I think that is one of the areas we definitely must look at because there are areas and, in this case, Mexico, where the cost of fuel is very, very low; two boats, with everything being equal, placing shrimp on the market, the differential only in the fuel will mean that conceivably the shrimp from the low fuel cost boat could be sold for several dollars less, that is an area that has to be looked at.

Either some assistance in the fuel price from our side, or some compatible fee on the imports. I think that we need to look at equalizing the cost—and that is not only, as you well know, a problem of the fishing industry but with cars, television, everything, so we become locked into a very controversial, very sensitive international area, considering all the products.

But that certainly is one of the areas we need to look at. The impact in our area with the Mexican shrimp, I would not limit it solely to that.

Mr. **Breaux**. Thank you, Kika.

Yesterday almost became Texas day here at the committee and your constituents were very eloquent in their testimony about the problems that they are particularly facing in that area.

Mr. Forsythe, questions?

Mr. **Forsythe**. Thank you, Mr. Chairman. And, Kika, I was certainly glad to hear from you. I am awfully glad you do make the point that the Mexican import of shrimp isn't really the whole problem.

The figures we just got this morning would indicate there has been a growth of imports but it is certainly not the total problem that is involved so far as the shrimping situation is involved.

Mr. **de la Garza**. I might say that it has a greater impact in my area but it is not all of the problem.

Mr. **Forsythe**. At the end of this last quarter there was about a 25 percent increase of imports from Mexico over 1979. But, if you go clear back to 1974, in the first quarter of the year, you find an import total of less than the 1979 level.

It hasn't been a big change through this period. There has got to be more than that alone.

Mr. **de la Garza**. Part of the reason for that is the closing of the Mexican waters to American shrimp boats.

Mr. **Forsythe**. Which was actually completed in what year, Kika?

Mr. **de la Garza**. They started it from *x* boats to *x* boats to zero last year.

Mr. **Forsythe**. Seventy-nine was the first zero year.

Mr. **de la Garza**. If the same amount of shrimp is being caught from Brownsville to Campeche, and the same amount of shrimp is being sold in the U.S. market, you then take out all of the American boats, so that gives you the amount of shrimp that is coming in as Mexican export 'all caught by Mexican boats or in the cooperative agreement with other boats.

Mr. **Forsythe**. Are there some American boats in cooperative agreements down there?

Mr. **de la Garza**. I beg your pardon?

Mr. **Forsythe**. Are there some American boats in cooperative agreements fishing in Mexican waters through that——

Mr. **de la Garza**. Not to my knowledge from our area.

Mr. **Forsythe**. Not yet at any rate.

Mr. **de la Garza**. There may be some from other countries but, to my knowledge, no American shrimp boats are in the cooperative agreement. There are some cooperative agreements for the shrimp after it is caught but, to my knowledge, no boats.

Mr. **Forsythe**. Thank you.

Thank you, Mr. Chairman.

Mr. BREAUX. Thank you, Kika, very much. I know you have another meeting.

Mr. DE LA GARZA. Thank you very much. I appreciate your cooperation. We will look forward to working with you.

Mr. BREAUX. Chairman Don Fuqua, welcome.

STATEMENT OF HON. DON FUQUA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. FUQUA. Thank you, Mr. Chairman and members of the subcommittee. I appreciate the opportunity to appear before your Committee today to testify in support of H.R. 7039, the American Fisheries Promotion Act.

Let's, for a moment, look at the state of the American fishing industry today. As it has been pointed out, it is beseiged by imports, hampered by State and Federal regulations and about to be put out of its misery by the ever-increasing fuel costs. The American fishing industry is as old as our nation itself and we cannot allow this vital segment of our economy to go under. The costs, in terms of jobs and investment, is tremendous and all Americans will be the losers.

Mr. Chairman, I am informed that in excess of 6,000 shrimp boats in the gulf, American shrimp boats, with a crew of three to four on each boat—that is between 18,000 and 24,000 jobs—and counting not the onshore jobs that this industry creates.

As chairman of the House Committee on Science and Technology. I am acutely aware of the advancements that can be made through research in many areas. The fishing industry is no exception and can benefit greatly through an enhanced research and development program.

The grants provided for under this act are needed to encourage the investment in research and the investments promise to yield good dividends.

Imports are wreaking havoc on our domestic fishermen. Our people do not ask for handouts, but only for fair competition. To this end, the project to establish a system to grade the quality of fish is essential.

Further, we must work now to improve the fuel efficiency of our fishing operations. From the inefficient motors on boats now in use to wasteful practices which have been a tradition on docks and in warehouses for years, this industry, like many others in this Nation, needs to update its technology and fuel efficiency.

The need is even more pressing for our fishing industry which is forced to compete against boats with access to cheap fuel in other countries, such as Mexico. In Mexico, a gallon of deisel is sold at approximately 17 cents per gallon and, as we all know, over $1 a gallon in the United States.

This gives the Mexicans approximately $1.25 per pound advantage on the shrimp sold in the U S. markets. The situation is reaching crisis proportions and Congress must act soon to insure that the American fishing industry is able to compete fairly and equitably with the fishing fleets of other nations.

As I have already mentioned, facilities are worn and should be updated. I have cosponsored the Capital Cost Recovery Act which, in my belief, we must act on to encourage business to update buildings and equipment and H.R. 7039 provides for the availability of funds to help commercial fishing operations improve conditions without going so heavily into debt that they will be perpetually in the red.

Yesterday, Mr. Chairman, you heard from members of the fishing industry and you will hear from more today. These men and women have worked hard, in many instances, for all their lives, and know the sea and fishing industry better than we could ever hope to. Now, as the decade of the 1980s begins, they see their survival threatened. They are scared and they have every reason to be.

We have, as a society, tried mightily to protect our environment. We must also be eager to protect fish and marine mammals and the ocean plant life. I do not regret these efforts but we should recognize the burden that they have placed on the fishermen.

The fishermen that I have talked to want to keep the ocean just as clean as the rest of us do. In order, however, to comply with special environmental regulations, fishermen have been beset with additional costs in recent years.

Because of the competition from overseas, including some of the countries which subsidize their fishing industry, they've had to keep prices down and profit margins low. They have not had the opportunity to improve their equipment and conditions as they would have liked to and now are reaching the breaking point.

As small businessmen, these commercial fishermen are subject to the same OSHA rules and regulations as any other business. We all know the stories of how much Federal paperwork requirements have increased in the last decade. Just remember that, on top of everything else, fishermen, too, have reams of forms to fill out.

I come today as someone who represents many fishermen. I also have a boat-building industry in my district which would be hard hit, if not devastated, by the worsening economic conditions.

Let me reiterate my belief, Mr. Chairman, that what we need is not a "Fisherman's Relief Act" but, rather, as this legislation is properly entitled, an "American Fisheries Promotion Act" to encourage, strengthen, and renew the vitality of this very important industry.

Mr. **Breaux**. Don, thank you very much for your statement. If you had to pick the most serious problem facing the people in your area with regard to the fishing industry, what would you say that would be?

Mr. **Fuqua**. Mr. Chairman, I think today it is the disproportionate cost that fishermen have to pay for their fuel. As I mentioned, it is about 17 cents a gallon in Mexico. We know that diesel fuel in this country is a dollar a gallon and, in some cases, higher than that.

That is, as I also pointed out, about $1.25 differential in the dock price of shrimp that our shrimpers are being able to charge and what they can receive. That is adversely affecting them in the marketplace. That is the most immediate problem today, Mr. Chairman.

Mr. **Breaux**. Mr. Forsythe?

Mr. **Forsythe**. Thank you, Mr. Chairman.

Welcome, Mr. Chairman. I am delighted to be here with one of my very conscientious and dedicated members of the Science and Technology Committee also.

Mr. Fuqua. Thank you.

Mr. Forsythe. We appreciate your concern in this area, Don. As you pointed out to the chairman, the fuel price is probably, one of the major problems and probably one of the most difficult ones that we have in terms of trying to frame anything that can have an immediate effect.

Mr. Fuqua. I might just add a postscript to that, Ed. I think the most immediate problem is the fuel cost. There are long-range costs such as efficiency of operations, promotion of the fishing industry. And that has an immediate to long-range implication.

But I think right today the most serious problem is the fuel cost.

Mr. Forsythe. Would you have any suggestion as to where that solution resides? It hardly seems to me that a loan program gives more than temporary relief, hopefully, on the basis that something will change in fuel cost, or in research and development to get more efficient vessels or even to move into other unutilized species.

But when you come to this most disastrous fuel differential, I just don't feel very comfortable that we have got much that is seeming to get at that.

Mr. Fuqua. I inquired with Governor Askew, who is now the Special Trade Representative to the President, if there was a case that might be made as far as an unfair trade practice or dumping, and it appears that there is not a case that can be made in that situation.

But what would be the immediate relief: there could be, I think, several avenues. One would be a direct subsidy for the price differential in diesel fuel. I have some reservations about that.

But there could be other ways that that could be done. There could be tax credits with a scale based on what the differential was between the various fuels available and the competition in that market area.

There could be more rapid depreciation of equipment cost. There are other things that could be beneficial, I think, in trying to help this situation than just an outright grant of funds and of credit that you mentioned.

That could be helpful also, but sometimes that only postpones the agony which is later to come and the person finds himself digging a bigger hole for himself, a financial hole, so I am not sure that while there may be some loans that will be beneficial, I don't think just loaning money is going to guarantee success when he is operating at a loss, loans are not going to help that because of the price differential.

Mr. Forsythe. Loans aren't going to help and tax credits aren't going to help if he is in a loss position either.

Mr. Fuqua. That has its limitations in any field.

Mr. Forsythe. You mentioned some way of balancing, and fees have been mentioned, countervailing duties, for instance. But all of these things are out of the jurisdiction of this committee and we have got to get into Ways and Means and Foreign Relations to get to these areas.

In some ways, it might be helpful to help start building that case in these hearings.

Mr. **Fuqua**. I think so. You mentioned countervailing duties, and that is an option that our colleague from Texas had discussed in a colloquy with Chairman Breaux. I think that is certainly an excellent area that should be explored.

Mr. **Forsythe**. Price equality is not all there is to this. I think there are other things also involved, as I pointed out to Kika, in terms of the market problem.

Thank you.

Mr. **Breaux**. Congressman Wyatt, any questions?

Mr. **Wyatt**. Just one, Mr. Chairman.

Mr. Chairman, in your discussions with Ambassador Askew, did he tell you what the basis of reasoning was concerning the statement that there was no dumping on the American market?

Mr. **Fuqua**. We were discussing basically the differential in fuel price. If the Mexican Government had been purposely subsidizing that price, and they may be, to keep it at 17 cents a gallon, but there is no prohibition against an American shrimp boat pulling up to a Mexican dock and topping his boat off at the same price, so it is not a discriminatory practice. It is available to Americans to load their boat.

Mr. **Wyatt**. Are you aware that we had testimony yesterday, Mr. Chairman, that indicated that that was not the case, that we could not refuel in Mexican waters except for emergency reasons?

Mr. **Fuqua**. If that is different information then I will get back in touch with Governor Askew because it was my understanding and it was also his understanding that that was the case. If our information is incorrect then—there may be a case, a case of reciprocity, so to speak, that American shrimpers could buy the Mexican fuel.

It was available and the price to the normal commercial consumer was not at 85 cents a gallon but to the shrimper it was at 17 and the government was making up that difference. If that were the case then I think we may have a case for dumping.

Mr. **Wyatt**. I have no idea whether the Mexican shrimp industry is being subsidized in terms of price of the fuel—17 versus 34, 45 or whatever it may be—but I think it is true, if you look into the situation, American shrimpers could not go into Mexican waters and purchase Mexican fuel at any price except for emergency purposes.

That may be the hangup in terms of saying there isn't dumping although we can't purchase fuel. We received testimony yesterday on that fact. Certainly, the Brownsville shrimpers could, without any great problem at all, load up on fuel in Mexico and I don't think they are allowed to do it.

Mr. **Fuqua**. The other point is, too, that the market for the shrimp is in the United States, not in Mexico, so there is really no advantage for an American shrimper to go all the way to Mexico just to get fuel, particularly when he can't even fish in those waters.

So it is not that they have to come by Mexico on their way back to the United States or something like that and try to refuel, or take advantage of that.

So even if it were available, from a practical standpoint it is not to their advantage. But I will certainly get back with the Governor and discuss that point.

Mr. Wyatt. I would make one other point, and that would be—I think you would agree with this—the fact that they are flooding the American market with shrimp, they are bringing in a great deal of shrimp—probably all the American market will bear—and, therefore, depressing our price when there has been a drop. They are continuing to bring in large amounts of shrimp.

Although their exports of shrimp are down they are still flooding the American market and, in fact, at this time we have large quantities of shrimp—Mexican shrimp—that are in warehouses, thereby causing the pricing problem in this country. You would certainly agree with that.

Mr. Fuqua. I certainly do agree.

Mr. Wyatt. Thank you.

Mr. Breaux. Don, thank you very much for your presentation. I appreciate your cooperation

Mr. Fuqua. Thank you very much, Mr. Chairman.

Mr. Hutto. Mr. Chairman.

Mr. Breaux. Earl Hutto.

Mr. Hutto. Before my distinguished colleague from Florida leaves I want to thank him for his support of fisheries and fishermen along the gulf coast and in this country. He has been one of the foremost supporters and I certainly want to associate myself with Mr. Fuqua and his statement before this committee in support of the American Fisheries Promotion Act.

I would like to say that I too am in support of this legislation to develop and maintain this vital interest in the United States. I would also like to compliment you, Mr. Chairman, the distinguished ranking minority member, Mr. Forsythe, and the chairman of the full committee, Mr. Murphy, in offering this needed legislation at such a critical time for the domestic fishing industry.

I am hopeful that this legislation would truly be a good act and in the interest of the American fisherman and the American people. Obviously, these are critical times for the fishing industry with excessive fuel costs, rampant inflation, extracting an ever-increasing percentage from their incomes and, in addition to this, the American fishermen have had to contend with subsidized foreign fishermen who continually impinge on their very livelihood.

I believe that your bill will attempt to address these basic problems by revitalizing the Fisheries Loan Fund to allow our people to obtain needed assistance by amending the Saltonstall-Kennedy program to aid domestically controlled enterprises by linking foreign fish allocations to trade barriers and by the eventual phase out of the foreign fishing in our waters.

I want to thank you very much for introducing this bill and my colleague from Florida, I appreciate your support of it.

Mr. Breaux. Thank you, Congressman Hutto.

Thank you, Don.

Next, we will hear from a colleague from Texas, Mr. Eckhardt, a former member of this committee and a very valuable member at that time. We always appreciate his concern and his good recommendations and we are pleased to receive your testimony, Bob.

STATEMENT OF HON. BOB ECKHARDT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. **Eckhardt**. Thank you, Mr. Chairman.

I would like to ask unanimous consent to introduce my testimony and summarize.

Mr. **Breaux**. Without objection your entire statement will be made part of the record.

[The following was received for the record:]

Statement of Hon. Bob Eckhardt, a Representative in Congress From the State of Texas

Thank you, Mr. Chairman, for the opportunity to testify today in support of H.R. 7039, and to suggest some possible changes which would provide some short-range help for the American shrimpers, who are in one of the toughest economic binds they have ever experienced.

First, let me emphasize the importance of the commercial fishing industry, particularly the shrimping industry, to my District and its residents. My Disrict extends to the shores of Galveston Bay, the most productive estuarine area on the Texas Gulf Coast and one of the most important on the entire Gulf Coast, from the tip of Florida to the Rio Grande. While a large part of the shrimp landed in Texas annually are landed at ports further down the Texas coast, the nutrient-rich waters of the Galveston Bay area provide the productive nursery ground for the immature shrimp. It is here that the post-larval shrimp grow to maturity, before returning to the Gulf of Mexico to spawn.

Another economic aspect of the shrimp fishery, particularly upon Houston, is that it provides a great deal of protein, not only to the individual households, but to the thousands of restaurants, along the entire Texas Gulf Coast. Year in and year out, Texas produces from 50 to 60 million pounds of shrimp annually. In addition, there are scores of shrimpers operating out of ports in my district as well as from Galveston, Port Arthur and Freeport. So you can understand my interest in the problems being faced by this industry.

While some of the problems faced by the shrimpers are common to other segments of our economy, some to them are applicable to only the shrimp industry. It is true that the farmers are faced with an alarming increase in the cost of Diesel fuel with which to operate their farm implements. However, there are some major differences between the farm situation and the situation faced by shrimpers. First, I doubt that the cost of fuel for the farmer represents as large a percentage of operating costs as it does for the shrimper. Once the farmer plants and weeds his crop, his implements are idle. However, the shrimp boat's engines run incessantly, from the time it leaves port until it returns. The shrimper's income depends in a large part upon how much he spends for fuel. For instance, out of a $185,000 trip expense for a tuna boat, $155,000 of that was for fuel and lubricants. I am sure the same statistic holds true for the shrimper.

Furthermore, while the Diesel cost for fishermen had zoomed also to 90 cents per gallon, his competitor is not the next-door farmer who pays the same amount for fuel. His competitor is the shrimper from Mexico who has to pay only 20 cents per gallon or the shrimper from Venezuela who pays only 9 cents per gallon. These foreign fishermen can bring their catch into American ports at a much lower price than our domestic fishermen can, thus making it unprofitable for our shrimpers to ever take their vessels from their slips.

In fact, the National Marine Fisheries Service tells me that our offshore shrimp fleet totals about 5,000 vessels, and it is estimated by fishing association officials that 60% of those vessels today are tied up at dock, financially unable to go shrimping. I would like to run a scenario by you. Some 420 of those 5,000 vessels are financed under the Federally-guaranteed loan program, and are worth about $70.2 million. If some sort of help, on both a long-term and short-term basis, is not provided our shrimp fleet, the Federal government possibly would have to foreclose on those 472 shrimp boats, and proceed to sell them at auction. And who do you suppose would bid on them? Some foreign fishing fleet that would simply add them to those which are already competing with our domestic fleet. It is even conceivable that domestic shrimping could end entirely, thus opening up the 200-mile economic zone to foreign fishermen entirely, and that segment would then have complete control over the price of shrimp to the American household and resturant.

I would like to tell you of a personal experience. Just a few weeks ago, a group of Gulf Coast residents came to my office, seeking help in selling their fleet of 29 shrimp boats. These are 72-foot vessels none of the older than 18 months, and fully equipped for shrimping operations. They are worth something like a quarter of a million dollars each. The owners told me that they simply could not keep the boats in operation, and they were in danger of defaulting on their payments to the banks on the government-insured loans.

There is no market for shrimp boats in America today. So their only alternative is to try to sell them to some foreign corporation or government. I have placed them in contact with the American consul in Mexico City, and they are negotiating with a Mexican company, which hopes to purchase them for conversion to squid boats. I have also written the consulates in six other Latin countries, trying to help find them buyers. Here is a situation where our shrimp fleet is about to lose 29 valuable vessels worth an approximate $7.5 million.

H.R. 7039 is a very important attempt to deal with the problems I have just outlined. The bill provides breathing room for fishermen to make the transition to dealing with the new realities brought on by skyrocketing energy prices. The R&D programs to be set up under Title I will help fishermen improve their fuel and operating efficiency. The expanded tax and loan guarantee benefits under Title II should be of substantial benefit to the processing end of the industry. And the provisions of Title III should bring under control the problem of foreign operations in American waters, with the permit fees of Section 302 providing additional benefits through the loan and R&D programs.

The one aspect of the bill that I feel could be the most important is the Section 212 loan program. However, that program must be strengthened if it is to play a truly effective role in helping the fishing industry. The fisheries loan fund could provide the infusion of captial that the industry needs to bridge the gap into the 1980's, if the program is not exclusively limited to assisting vessel owners in danger of default on their mortgages as it would be until 1982 under the bill as introducted. I suggest that the program retain its current scope so that it can be used in the short run to assist fishermen in meeting exorbitant increases in operating expenses in addition to helping those in danger of default. The additional funds will hopefully be available through the 10% permit fees for foreign fisherman under Section 302. If Section 302 monies are not enough we should come up with a means to further beef up the fund.

It is most important to the effective operation of the fisheries loan fund that the legislation mandate the lifting of the current moratorium being imposed on the use of the fund by the Administration of NOAA. It is time that we put the fund to work to rescue our fishing industry, and I think we should make it clear to NOAA that it has a duty to administer the loan program.

I pledge to you my help in making these changes and moving the legislation through the House. If we take action I am confident our commerical fishermen have a future. If we do not, I fear that one of our most important domestic food industries will cease to exist.

Mr. **Eckhardt**. A good amount of what I had in my testimony has been said and I shall not repeat that. I have had a continuing interest in commercial fishing since I have come to Congress, and even before.

My area abuts on Galveston Bay, which is that area, and all of the estuarine areas around, a very valuable nursery area for shrimp. So I have been interested in the shrimping and oystering industry for a long time and have worked pretty diligently in regard to preserving that in the area.

Texas produces dependably about 50 to 60 million pounds of shrimp a year. That is the way it ordinarily runs. Your State and Texas, I think, together produce probably more shrimp than any other like size area. I think that is number one. I think the second area is somewhere in India.

So it is an extremely important commercial issue for the area that I speak for.

As Chairman Fuqua stated, there are about 6,000 shrimp boats in operation. Of these, about 472 have some kind of federally guaranteed loan programs. And, of course, that is about $70 million in investment.

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If those boats were put on the auction block for sale, which might very well happen without this bill, it would mean that these boats would largely be taken up by fishermen from other countries, largely Latin American countries, countries that would be in competition with the remaining shrimp boats in this area, as has been pointed out.

The discrepancy in diesel fuel prices is very large. The 17 cent price in Mexico is not as extreme as the Venezuela price of about 9 cents a gallon for diesel fuel. So we are faced with a very, very difficult question if this bill is not passed.

I had owners of 29 shrimp boats come to my office and tell me that their 72 foot boats worth about a quarter of a million dollars apiece would simply have to be sold and they wanted aid in selling these boats in Latin America. That is what has to happen if something is not done under this bill.

I want to commend you, Mr Chairman, for taking the lead in presenting this H.R. 7039, and particularly to commend section 212, the loan program. However, I think that program must be strengthened if it is to play a truly effective role in helping the fishing industry.

My colleague, Kika de la Garza said a moment ago, we can't wait till the shrimp operator, the shrimp boat owner comes to a position of imminent collapse before we give some aid.

And, of course, I understand the very stringent situation with respect to budgetary matters in Congress at this time. But I think we should make a distinction between cutting Federal programs that don't have so directly to do with unemployment, and don't have so directly to do with persons in small businesses having to go out of business.

I think we need to treat this in a very generous way at this time rather than in a picky manner in which we would only save those just before collapse. The problem is simply this: it is not necessarily a chronic problem for fishermen. The thing that has happened is that we have had an enormous increase in the cost of all oil and oil products since the Arab embargo in 1973, and the biggest jump since immediately after the Arab embargo—and, incidentally, shrimpers from my area were coming to me and complaining then about the problem—it was one of the grounds on which I supported the bill called EPCA in 1975, which somewhat stemmed the tide of rising cost.

But this period of 1979 was the greatest jump in diesel fuel prices and all product prices as well as crude oil prices that we have seen. So what we are talking about is trying to bridge an immediate crisis of great dimensions.

The whole problem with respect to oil prices is not one of the price is necessarily too high. The problem is the impact of that price over a relatively short period of time. There needs to be some transition period in which these people can be helped, and that is what your bill, in Section 212, does, except that the bill as presently drawn is only available to owners in danger of default.

I would suggest that there ought to be an additional infusion of capital that the industry needs to bridge the gap in the 1980's.

This doesn't mean that we are simply pouring money down a rat hole. These people are confronted with an immediate crisis because of that enormous jump in the price of diesel, and because of the discrepancy in price paid by their competitors.

In 1979 alone, diesel prices jumped somewhere around 60 percent in a single year, possibly even a larger amount to shrimpers because they have a different pricing structure. I don't know precisely what the jump was there. But over the Nation it was about 60 percent.

So what we are talking about is giving them time, giving them a little infusion of capital. If we don't do that we are simply going to turn over shrimping to other people. We are going to turn it over to Mexico, Venezuela, and all of the countries around that bend where shrimp are produced.

I think that would be a terrible thing. I think it would be a terrible thing for the country and it would be a cruel thing for persons who for generations have learned to be effective, efficient fishermen.

Of course there needs to be an increase in efficiency and over time we will also be producing many other sea products besides shrimp. I have the fullest faith in the fishing industry of the United States and particularly my gulf coast area, in ultimately becoming self-sustaining and profitable.

But they are presently faced with an emergency. They need, as Don Fuqua said, some time to improve the efficiency of fishing boats just like we are improving the efficiency of automobiles with respect to the using of fuel.

They need to move into certain other areas of fishing but, ultimately, the value of the sea and of estuarine lands for food production is vastly greater than an equal area of dry land.

For that reason, I think that we have great hope for a future in this industry. The problem is to try to bridge over an immediate likelihood of failure at this time. Therefore, I would recommend the passage of this bill and I would particularly endorse Mr. de la Garza's suggestion that it go beyond merely those who are presently failing, that it inject some capital infusion into the industry to make it continue to act viably and in a healthy manner.

I thank you very much for your giving me this opportunity to testify here today.

Mr. **Breaux**. Thank you very much, Bob, for your presentation. It was suggested yesterday by one or two of the witnesses that one of the problems, particularly in the gulf area, is that we simply have too many shrimp fishermen going after too few shrimp, and that is a basic part of the problem, and by having a program which loans money to fishermen to prevent them from defaulting on their boat loans, we are merely perpetuating overcapitalization. What are your thoughts on that?

Mr. **Eckhardt**. I don't believe that is true in the long term. If we were not in the particular crisis, fuel crisis, at the present time, and if we were under the ordinary circumstances that existed in the shrimping industry, there would certainly be no shortage of cash.

The thing is I have always felt that in the long term the best policy is a rather free operation of the total gulf. I know that we have tended to fence it off at the present time so that the Mexican fishermen are shrimping in their waters and the American shrimpers in these waters.

Actually, shrimp is a seasonal crop. The ideal way to handle it is to permit persons to follow that crop and if that were possible there would be plenty of shrimp, I think, for everybody.

As you know, when I was on this committee I had serious doubts about the fencing off of waters and I was very concerned about the possibility of Mexico taking the action, which they ultimately did, when your committee was talking about the 200-mile limit.

So I really don't think there is a shortage of shrimp. The question is really a crisis of cost of shrimping at this time.

Mr. **Breaux**. Thank you, Bob.

Mr. Forsythe?

Mr. **Forsythe**. Thank you, Mr. Chairman.

Thank you, Bob.

In shrimp we are dealing with the top of the market when you look at fish as a whole. It is the luxury product, along with a few other resources such as oysters, lobsters. As you point out, the fuel differential is a major problem.

Do you see the solution as just a loan program to try and cover a gap resolving that basic problem.

Mr. **Eckhardt**. I think whenever you have immediate and unusual pressure on any kind of business operation there has to be a little time to permit that business to adjust to it. A few years ago the greatest amount of the total cost expended in shrimping was, No. 1, labor; No. 2, fuel; and No. 3, ice.

Now, it is No. 1, by a large measure, fuel; No. 2, labor; and No. 3, ice. The thing is that that kind of drastic change in the whole structure of cost, an enormous upward movement of the cost of fuel has created an immediate problem that the fishing industry can't meet quickly.

I think that it may be right that to merely put in a little infusion of money merely to prevent foreclosure, the sale of these boats immediately, might well not solve the problem.

I think that if that is all we can do, just from the standpoint of humanity we ought to do it. Let those who can adjust at least have a fair fighting chance. But I believe it takes more than that.

I do not believe a program should be limited to loans merely to prevent foreclosure on existing boats. I think there has to be improvement of the fleet, like Don Fuqua was saying with respect to the energy efficiency. There has to be a real development of fishing in a very much more sophisticated way than it exists at the present time.

There has to be an elimination of certain inefficiencies involved and there has to be a great deal of cooperation, I think, by government with the fishing industry to try to improve that situation.

But in the long run, I don't really think we are talking about just the short-term bale out and then a collapse, if you follow a program that permits infusion of capital beyond merely saving foreclosure of some boats.

Mr. **Forsythe**. I don't quarrel with that feeling. I am concerned that if it isn't any more than that then what do we do. It seems we need substantially more.

My feeling is that most of those farmers that were on support programs down through the last quarter of a century or more, were kept at subsistance levels. It was farmers who weren't the prosperous farmers.

I am concerned that if we are going to put the shrimp industry on the dole, we aren't solving the problem. We need to get at the efficiencies in operations.

There has been a pushing of our total shrimp fleet basically into U.S. gulf waters, which creates another problem. It is not a simple one and I think we have got to see all of these things in context. What do you think about countervailing duties type of thing to try and get some equalization in fuel costs?

Mr. **Eckhardt**. I think we have got to be very careful not to create a constant vying between the various countries that are in shrimping against each other. I think that is one trouble with what happened with respect to blocking off the waters.

It is a difficult question and I think it has to be very carefully assessed from the standpoint of what retaliatory action would be taken.

Incidentally, I am not as reluctant as my colleagues here, I think, with respect to our doing something about our subsidizing fuel. It seems to me that the other shrimpers of the world are being subsidized and it seems to me that creates a quite different situation than exists, for instance, in the question of farming because farmers are also hit by high diesel cost, but it is not as great a proportion of their total cost as in shrimping because their harvesting and planting equipment is not working all year long, all the time, as the shrimp boat is burning fuel all the time it is out on the water.

In addition to that, they are not competing with others who have an immediate advantage.

Mr. **Forsythe**. I think we agree, we have got a complex problem. I appreciate your testimony very much. Thank you.

Mr. **Breaux**. Congressman Wyatt from Texas.

Mr. **Wyatt**. No questions.

Mr. **Breaux**. Mr. Trible.

Mr. **Trible**. No questions.

Mr. **Breaux**. Bob, thank you very much for your presentation. I think it has been very helpful.

Mr. **Eckhardt**. Thank you.

Mr. **Breaux**. We would now like to recognize a former member of this committee who now sits on the powerful Appropriations Committee.

We would like to welcome our good friend from Georgia, Congressman Bo Ginn, who will present the next witness. Bo, it is good to have you back.

STATEMENT OF HON. BO GINN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. **Ginn**. Thank you very much, Mr. Chairman, for the privilege of being here this morning.

I come here, Mr. Chairman, wearing two hats; one, of course, is first to thank you and Mr. Forsythe and Chairman Murphy for introducing 7039, to provide a vehicle to create discussion and hopefully some good solutions to some of the severe problems that are presently confronting the fishing and shrimping industry.

As you know, I represent the entire Georgia coast and that, of course, means I represent all of Georgia's fishing and shrimping fleet. I can personally attest to the fact that our fishermen and our shrimpers are in deep trouble, some to the extent that they have found it necessary to supplement their income by hauling Cuban refugees rather than shrimp and, thereby, they have increased their problems tenfold.

Mr. **Breaux**. I understand that there is a quota on those products.

Mr. **Ginn**. I do thank you, Mr. Chairman, for introducing this legislation and I also want to express gratitude for permitting me to come here this morning and present to you one of my oldest and finest friends from the First Congressional District of Georgia.

Of course, the name of that gentleman is Earl Swicord. Earl Swicord is a graduate of the University of Georgia and Georgia Southern College, where we both have a very special interest.

He came to the SeaPack Corp. in 1967, as vice president in charge of sales, and he is currently the senior vice president of Rich-SeaPack.

Most recently, he has served as the vice president of the Shrimp Breeder and Processor Association, and since 1974, he has served on the board of directors of the National Fisheries Institute, and he presently serves as president of that outstanding organization.

Mr. Swicord is a native of the historic and mother city of Georgia, Savannah, and he presently lives on the beautiful island of St. Simons. He lived there long before it became the favorite vacation spot of the President and I suspect he will be there long after the President has vacated the White House.

Earl Swicord is one of Georgia's oustanding businessmen. He is very knowledgeable on the entire spectrum of the fishing industry, whether it be the catching, the production, or the manufacturing.

I am very honored, Mr. Chairman, to be here today to present him to you and look forward to hearing as much of the statement with you as I can.

Thank you.

Mr. **Breaux**. Thank you, Bo.

Earl, we welcome you in your capacity as president of the National Fisheries Institute. I was just wondering whether you plan to be in St. Simon 6 more months or about 4 more years, do you know? [Laughter.]

STATEMENT OF EARL SWICORD, PRESIDENT, NATIONAL FISHERIES INSTITUTE; ACCOMPANIED BY LEE WEDDIG, EXECUTIVE VICE PRESIDENT, AND GUS FRITSCHIE, DIRECTOR OF GOVERNMENT RELATIONS

Mr. **Swicord**. Mr. Chairman, I plan to retire in St. Simon and that is many years off. I cannot speak for the current administration however. [Laughter.]

Mr. **Breaux**. Earl, we welcome you and are pleased to receive your testimony.

Mr. **Swicord**. Thank you, sir, and I certainly appreciate those kind remarks, Bo. I can remember back many years ago when we sat side by side in college and wondered where we were going to get the answers to the question. And I certainly commend you for the fine job you have done for the State of Georgia and particularly our congressional district.

Mr. Chairman, as president of the National Fisheries Institute, I have with me today, Mr. Lee Weddig, on my extreme left, who is our executive vice president and Mr. Gus Fritschie, who is our NFI director of government relations.

We are greatly appreciative of the opportunity of appearing before this committee to discuss H.R. 7039, the American Fisheries Promotion Act. Also, Mr. Chairman, at the time you addressed the National Fisheries Institute convention last month, you predicted that portions of this proposal would be controversial, and I certainly bow to you and assure you your crystal ball assumption was exactly right because that prediction has become ever increasing on a true basis.

Our organization began its evaluation of this bill immediately after your talk and began to hear the various pros and cons on the bill's many provisions. I think it is important to consider the condition of our industry at this time since many of the opinions you have heard, many of the opinions which you will hear are derived from present circumstances.

You have heard about the difficulty facing vessel operators, especially shrimpers, due to high fuel cost, low productivity and low prices.

The vessel operator is not alone in facing the economic adversity in 1980. The entire industry—vessel operator, processor, distributor, importer, exporter, broker, and, finally, restaurant operator and the retailer are all being pinched.

Some—and that some could be replaced with many—will not survive. The high fuel cost and other inflationary pressures making vessel operations impossible for some are having an even more devastating indirect effect by reducing consumer disposable income. This has a direct impact on restaurant patronage and retail food choices which, in turn, result in declining sales and per capita consumption.

When companies like mine cannot sell the product, we must cut back on our purchases of raw material. This, in turn, drives the price down which is available to the fisherman, and the law of supply and demand remains in force, at least in the seafood industry.

When a packer or distributor must pay 20 to 25 percent for money, as we had to earlier this year, certainly we cannot afford to carry an extensive inventory. We note that concern over possible default on vessel loans prompted at least one provision of this legislation.

However, the companies that have already gone bankrupt are not vessel operators, but processors and distributors. Hundreds of processor workers have been laid off. It was rather astonishing to read that the administration only recently determined the birth of a recession. The recession in our industry must have been most premature since we started to hear that concern last fall.

What makes the present condition appear so acute is the fact that the fish business—in all of its segments—has expanded rapidly for the past 4 years. The statistics of growth are most impressive. Per capita consumption has been on a steady increase. Landings have grown in tonnage and value hitting record figures in 1979.

The total amount paid by the consumer for fish products in 1979 is estimated at $12.6 billion. Just 3 years prior to that, 1976, it was $7.4 billion. Heavy demand for seafood here and overseas prompted above average price increases. For many, costs have increased even more.

Anyone in the marketing end of our business knows that we have slipped competitively. The root of our problem we face today is the erosion of the relative value we provide to the consumer, and the consumer is now speaking out. Remedies must center on the improvement of our competitive position in the marketplace.

National Fisheries Institute has evaluated H.R. 7039 with this in mind and in terms of the bill's impact on all facets of our industry. Our association is made up of some 950 member firms.

Included and represented are vessel operators, fish houses, fresh and frozen product processors, distributors, brokers, importers, exporters, retail chains, and restaurant chains. As you in Congress well know, it is virtually impossible to take a position that makes everyone happy when your constituency has such a broad base.

The association has a fundamental objective of increasing the consumption of fish and seafood in these United States. In order to do this, we believe it is essential to maintain a consistent, long-term supply of products.

This requires management of the resources to preserve their productivity, building a strong domestic production industry, and maintaining international trade. It also means education of the consumer to the value of seafood. Finally, it means working for a business climate conducive to making a profit.

Our comments on this bill will reflect our concern for the entire industry and its impact on the basic objective and goals we believe essential.

With the earlier discussion in mind, it is apparent that increased productivity is essential to the industry's health. We must counter the greater cost of fuel and money by producing more without proportionately greater investment of fuel use. The situation is not unique to the fish business but is, I sincerely believe, a more intense challenge.

Many of the ideas presented in H.R. 7039 do address the problems as we see them, while others can do with some modifications. We would like to address these one by one.

Extension of the capital construction fund to shoreside facilities: The National Fisheries Institute supports this concept because it addresses a pervasive problem in this country of capital formation.

The title XI loan guarantee. The National Fisheries Institute is on record in support of the loan guarantee extension.

The Saltonstall-Kennedy reaffirmation. This proposal has the complete endorsement of the National Fisheries Institute. The S-K program is the industry's only source of direct funding for applied research and development, and research and development are necessary to solve the root causes of our industry's problems—slipping productivity.

Fisheries attachés: The National Fisheries Institute supports the appointment of a minimum of six fisheries attachés with the designation of Tokyo, Brussels, and Rome as the location of at least three of these posts. We believe the appointments should be of persons with fisheries background.

Fisheries loan fund: The reopening of the fisheries loan fund is supported by the National Fisheries Institute with reservations. There is no question that present economic circumstances are placing many vessel operators in danger of defaulting on their mortgages. We also recognize the liability of the Federal Government should these defaults on loans occur that have been guaranteed under the title XI loan fund.

As I mentioned earlier, there have been a series of defaults or bankruptcies in the processing and distribution segment of our industry. One could also ask, Why should the U.S. Government underwrite certain vessel loan defaults? Why not underwrite the fast food fish and chips franchisee who couldn't pay the rent?

Our entire concept of business freedom involves acceptance of risk, acceptance of the possibility of failure. Once the Government enters the picture with special loans it also has the right and the obligation to set some of the rules.

Can Government provide default protection and not determine how many vessels there should be and who can own them? We don't believe industry wants this and therefore argue against the loan program with the avowed purpose of preventing defaults.

On the other hand, the present combination of circumstances not under control of the fisherman does argue for some sort of special credit program. We note that in an effort to protect food production capabilities and, we suspect, avoid food shortages later in the year, the Federal Government has established an emergency economic loan program for farmers in order to enable them to begin a season. This money is used to buy seed, fuel, and fertilizer. And it seems to us that the same logic should support a fisherman's loan fund.

High fuel costs and low production now place the fisherman in an impossible predicament. To survive, he must fish; yet fishing is economically feasible only when production potential and prices are more attractive.

Thus, a loan fund doesn't make a lot of sense, but only when there is good likelihood that the loan will be repaid at some later date. This differs from a loan to prevent default which carries with it the implication of good money following bad.

We support the revitalization of the loan fund, but with a change in purpose; that it be available to all fishermen to enable initiation of a season. The criterion should be whether the loan enables the vessel operator to stay alive in order to produce a profit later in the year rather than one of postponing default.

Increased fees on foreign fishing: There are several strong arguments in favor of increasing the fees charged foreign nations for fishing within our 200-mile zone. The most credible is the apparent disparity between fees now being charged and the cost of the program.

The FCMA provides for fees to be collected to cover proportionate costs of management, administration, and research. We understand that the present level of fees collection approximates $20 million.

And yet the development portion of the NMFS budget is only $107 million. Coast Guard, State Department, and State government costs add millions. Foreign fleets are catching about two-thirds of the fish in the FCZ, so there is some logic to a fee schedule that generates two-thirds of the overall cost.

Even if one apportions the foreign shares at a percentage of the total harvest in and out of the Fisheries Conservation Zone, the share would amount to 36 percent of the total or about two times the present levels if one considers the NMFS budget alone.

NFI suggests that the NMFS be instructed to restructure the basis of the permit fees and to apportion them on a tonnage basis rather than a value basis and that the objective be to recover the proportionate share of the overall management, research, and restoration costs borne by the taxpayer.

Dedication of the increase in fees on a temporary basis to the loan fund would help achieve the objective cited earlier. Following this use, we strongly support dedication of the fees to the S-K program with specific usage designated for consumer education projects.

The Observer Program: We support the 100-percent concept of observer program.

Phaseout of Foreign Fishing: The proposal to set an automatic schedule for the phaseout of foreign fishing is perhaps the most controversial of all the issues. NFI supports the concept but suggests a modification

We are concerned that a mandatory phaseout over a relatively short period of time would serve to force those nations with large distant water fleets to seek other fishing grounds—and, in short, make other arrangements to keep their fleets active as long as possible.

We believe that this would result in opening extensive trade arrangements with other nations and would be counterproductive to U.S. interests. The 3.6 billion pounds of fish now being taken in our zone by foreign fleets is mostly a low-value product. The bulk of it must be marketed overseas. Rapidly removing foreign access could well shut off indefinitely the market of these products.

The concept of tying resource access to market access should be a strong weapon in cracking the barriers to export. Yet its strength is diluted if we lay out a very rapid phaseout.

However, reduction of foreign fishing below the actual surface has merit to enable the U.S. interests to plan growth, to improve productivity by increasing the mass and size of fish, and to enhance the market potential.

We suggest that the first step of the phaseout be implemented as proposed in the legislation—that is, to reduce the total foreign allocations for each fisher to 90 percent of the 1979 base.

Then, at the end of 1981, assess the growth of the U.S. harvest. If it achieved 75 percent of the amount taken from the foreign allocation, then trigger a 15-percent reduction in the allocation for 1982. This procedure could be followed each year for each fishery which has a foreign allocation.

While the phaseout proposal applies to foreign fishing, we believe full intent of the processor preference amendment must be executed to avoid buildup of a situation that minimizes benefit to our Nation. Our basic opposition to the concept of offshore sales to foreign processors is well known and we reiterate it at this time.

We believe offshore sales to processors should never be allowed within operating range of shoreside facilities and that such arrangements never be allowed on resources in which the U.S. processors normally handle all, or virtually all, of that respective catch.

An effort should be directed toward preventing the buildup of offshore sales as the norm in the developing fisheries. To do this, the Secretary, in fisheries where foreign fishing is being reduced under this bill, should deny permits for foreign processing if he determines that foreign processing of United States harvested fish would adversely affect the development and/or expansion of the U.S. fish processing capacity.

In addition to the concepts included in the proposed legislation, Mr. Chairman, I would like to suggest another to solve another which has been impacting our ability to export fish products.

Presently, certain countries require the U. S. Government certificates of wholesomeness on incoming products. In order to obtain such certificates, the exporter must hire NMFS to inspect the product.

We would like to see NMFS be authorized to certify State and local agencies to provide such inspection and that NMFS be authorized to supply export inspection at no charge.

Mr. Chairman, this concludes our prepared remarks. We will submit a more extensive remark for the record and we are pleased at this time to respond to questions from your committee.

Mr. BREAUX. Mr. Swicord, thank you very much for your appearance on behalf of your association, the National Fisheries Institute, a very well respected representative group of the fishing industry.

I didn't catch any expression of NFI's opinion on linking allocations of U.S. surplus fish to the foreign market access for our fish products.

Mr. SWICORD. Would you respond to that, Lee?

Mr. WEDDIG. Mr. Chairman, we are supportive of that provision and we have testified on that in other hearings.

Mr. BREAUX. It was interesting, the proposal that you have on the phaseout. I take it that you support the phaseout in concept but are suggesting a slightly different manner of determining whether the United States is able to pick up the allocation that would normally go to the foreigners.

We have made a quick calculation here that indicates it would probably take about 7 years for a phaseout if the U.S. industry was able to pick up the slack each year. I don't have any problems. We are trying to accomplish the same goal just using different methods.

Would you care to comment on the predictability? Is that the reason you are making the different suggestion on how the phaseout should be accomplished, or what?

Mr. SWICORD. Yes, sir. We feel if the American fishing industry can take advantage of the total available resources within our 200-

mile limit, then that is one thing. Then we should make provisions to do that very rapidly.

I guess probably, Congressman, the best thing to cite is what we have heard in the last 2 days with respect to our friends from Texas with the phaseout of Mexican waters of American shrimp boats.

Do you recall back when this discussion originally came up the reason for an orderly phaseout instead of a blunt phaseout of Mexican waters was to provide those shrimp boats that were denied fishing permits inside the Mexican waters to find another viable fishing ground and gave them 3 years to do this on an orderly basis.

This phaseout didn't come, as you know, until January 1, 1980. I don't have to remind you that the great confusion and overabundance of shrimp boats in the gulf today, even though we as an industry were forewarned many years ago this could happen.

This is probably some of our problem right now. But we feel if a total pullout of foreign fishing within our 200-mile limit is made and the American industry capitalized itself to take advantage of those resources, then certainly we should escalate that scale.

Mr. **Weddig**. Mr. Chairman, if I could add on that, there is one other very important distinction between what we proposed and the way the bill is drafted. As I understand the bill, there would be a reduction in 1981, provided that the Secretary determined there wouldn't be an inordinate surplus prior to that.

Our approach mandates the reduction in 1981 whether or not there is going to be a surplus. It is our feeling that one thing that is very important is to provide a vast part of the resource there for the U.S. industry to grow into without any concern whether there is going to be foreign fleets allowed in there later in the year or elsewhere.

So our proposal is to take a cut at that foreign allocation and leave it there as long as it takes for the U.S. industry to build into it, and once it has achieved a certain part of that, take the next cut so there is always a portion of the resource that can be grown into without concern that in the middle of the year the reserve will be canceled, or whatever.

Mr. **Breaux**. What happens in the second year and the years thereafter?

Mr. **Weddig**. The same thing, Mr. Chairman, in that once there is some growth into that first cut, take the second cut and let growth occur into it.

Mr. **Breaux**. Is the reduction of the foreign fishing operations in our zone tied to our ability to handle the surplus?

Mr. **Weddig**. Yes, sir, after the first year, and we are saying 75 percent as a place to trigger the second cut.

Mr. **Breaux**. We have as a principle which we are trying to follow, that our phaseout is tied to the ability of the U.S. industry to use those fish, and I think that is something we really have to maintain. And you feel that your proposal would be consistent with that?

Mr. **Weddig**. That is correct, but it provides something else, Mr. Chairman. We have been talking about fuel costs and the need to increase productivity. One way you can increase productivity is to increase the amount of fish that are available to catch on a given trip or a given amount of effort.

By creating a larger mass of fish, by mandating what amounts to be a lower optimum yield you can do that, and that is another aspect of our proposal that we think is important.

Mr. **Breaux**. One of our initial concerns, which maybe you could comment on, is the fact that the formula is really tied to avoiding a substantial surplus.

Mr. **Weddig**. Only in the first year, Mr. Chairman, but I think there is a great question as to what constitutes surplus. There is a definition of optimum yield. It provides that that yield shall be the amount of fish that provides the greatest benefit to the Nation, and one way you can do that is by not catching them all at certain times, and that is what we are proposing.

Leave some of those fish there to grow and get bigger so the mass of fish is larger so that you can get more productivity. We are not going to solve the fuel problem without increasing productivity and this is one way to look at it.

Mr. **Breaux**. Let me ask you: As your association represents marketers of fish products worldwide, what are your thoughts on how your phaseout proposal would affect our access to foreign markets?

There are some who say that by phasing out foreign fishermen, we are going to lose some of our foreign markets. What are your thoughts?

Mr. **Weddig**. Mr. Chairman, I think it is going to be mixed. We have heard from people in certain parts of the country who depend on the Japanese market and I think if you look at the statistics you see that Japan is our largest overseas customer and they have become a very important market for a lot of U.S. fish products.

Some of these people have concern that a rapid phaseout of the Japanese would detract from their ability to sell into the Japanese market. I don't know whether that would happen but some people feel it would.

We feel that the matter of tying access to a resource, to market access, is a very important provision and in order to do that you have to have something to trade for a while. That is why we are saying take a mandatory cut, get the phaseout started and if we grow, take another cut.

In your bill as we read it, it doesn't necessarily provide for a phaseout because, as it stands, it plans a phaseout but the Secretary can go right back and say there is going to be a surplus and it is not going to take place. We say take a mandatory cut and start it off.

Mr. **Fritschie**. Mr. Chairman, one other feature in our amendments that we submitted to your committee but not Mr. Swicord's statement, is the involvement of the regional councils.

We are proposing that if the council determines that the phaseout should be accelerated even more than our gradual 7-year phaseout, such as in the case of luligo squid, for example, in the mid-Atlantic, to accelerate U.S. participation in an export market then the council could prepare an amendment to the FMP for that fishery and accelerate the phaseout.

So we think there may be fisheries where we can accelerate the phaseout even more because there is, according to some studies that we have done by professional economists, a market overseas for squid if we decrease on an accelerated basis the foreign fishing within the zone.

Mr. **Breaux**. Of course, joint ventures would continue to be allowed and would not be phased out. Do you think those would be increased as a result of the phaseout? That is the principle we are working from, at least until our domestic processing capacity takes over. Do you have any thoughts on joint ventures?

Mr. **Swicord**. I think, Mr. Chairman, that you might see an escalation of those joint ventures.

Mr. **Breaux**. Lee, do you have any additional comments?

Mr. **Weddig**. No, sir. I think we have a basic position that we are negative toward the concept of offshore sales to processing, foreign processing ships for the many reasons we mentioned before.

We recognize that that is a way that certain fisheries are going to be developed but, as we said in our testimony, we would like to make certain it doesn't become a large problem that we have to address in a few years and try to phase that out because the real value of the fishery is going to come when all of the value added is achieved by the U.S. industry and with the statistics that Mr. Swicord cited before about the amount of money that the consumer has paid for fish products, it is a great deal larger than that which is paid to the fishermen because there is value added up through the chain.

There is value added to primary processing, value added in secondary processing, and storage, and transportation, in retailing and in food service. The more of that we can achieve as a total industry the better off we are going to be.

Mr. **Breaux**. I take it you would support the way we handle joint ventures in the bill right now, to continue to allow them? Would you oppose permitting them indefinitely?

Mr. **Weddig**. We are opposed to that, Mr. Chairman, the concept of them but I think our position is fairly firm on it, but we are not suggesting an amendment at this time that would just outlaw them totally.

We do have some language in our amendments that do suggest that the Secretary take into consideration the growth of them and to try to prevent them when they would adversely affect the development or expansion of the U.S. fish processing capability.

Mr. **Breaux**. Gentlemen, we thank you very much.

Mr. Forsythe?

Mr. **Forsythe**. Thank you, Mr. Chairman.

We thank you very much for your testimony.

Mr. Swicord, on page 9 of your testimony you indicate that joint ventures should not be allowed within the operating range of shoreside facilities. Can you define what you mean by operating range?

Mr. **Swicord**. Mr. Forsythe, I think the intent of those words is meaning a reasonable distance for that ship to transfer that catch back to a land-based facility. In miles I don't think we are prepared to give you a good answer as to how many miles from the catch site to the processing site.

Mr. **Fritschie**. Mr. Forsythe, in a recent rulemaking proceeding the Institute did support the proposal by the North Pacific Council to place a 12-mile geographical restriction around processing facility in Alaska, floating barges that were put there by one of our members and that were there to purchase fish from U.S. harvesting vessels.

Based on the legislative history in the processor preference amendment, we supported a geographical protection of 12 miles around that site in order to encourage the growth of U.S. processing capacity.

Mr. **Forsythe**. Twelve miles? That doesn't seem like a whole lot.

Mr. **Swicord**. That was in that one particular instance, Mr. Forsythe. We would certainly, I don't think, want to go on record as supporting any type legislation that landlocked harvest within our domestic waters to 12 miles of any shoreside facility.

There are some facilities that are going to be out of business.

Mr. **Forsythe**. I guess you are saying it cannot be a single formula, it will have to depend on the economic conditions, the size of the boats and other things.

Mr. **Swicord**. Yes, sir.

Mr. **Forsythe**. You also state joint ventures should not be allowed when U.S. processors normally handle all or virtually all of the catch. How does this suggestion differ from the existing language in the act which prohibits joint ventures if U.S. processors have the capacity and intent to process U.S. harvested product?

Mr. **Swicord**. Our primary concern, Mr. Forsythe, had respect to the salmon in the Northwest. I would like to let our attorney, Gus Fritschie, allude to that.

Mr. **Fritschie**. Mr. Forsythe, as you are aware, there has been some discussion involving the upcoming salmon run in the State of Alaska about foreign processing for salmon caught by U.S. vessels within the fishery conservation zone.

In testimony we submitted to the council we strongly stated that the legislative history of the processor preference amendment precluded foreign processing on fish such as salmon, shrimp and others for which there was, on a long-term basis, full U.S. capacity.

So we are opposed to the idea of joint venture or offloading operations in fisheries such as shrimp, salmon, and other traditional U.S. fisheries.

Mr. **Forsythe**. Without regard to the capacity of the existing processing industry to handle the fish.

Mr. **Fritschie**. We think that on a long-term basis there is the capacity in the Northwest and in Alaska on salmon. We think that this committee considered that, and in your report on the processor preference amendment there is language opposing joint ventures on fisheries which are fully utilized both by American processors and American harvesters.

And we think, on a regular basis in Alaska the processing industry can handle the salmon run.

Mr. **Forsythe**. There have been some close calls on that within the last 2 or 3 years in terms of the capacity to handle the run.

Mr. **Fritschie**. There is also a question of what to do with all of the fish that has been marketed at that time. Perhaps Mr. Weddig might want to comment.

Mr. **Weddig**. Mr. Forsythe, I think our concern is capacity has to be looked on over a period of time. You cannot turn this thing off and on and say, this year, because you can't handle it we are going to allow foreign processors in, and what about the year when you have 50 percent more capacity than is necessary because the run is short. How do you make up for that?

We think that the intent of the processor preference amendment certainly precluded the idea of or didn't consider that there is no capacity if you look at it on a given year. So we are saying that generally the capacity is there and if you just happen to get a big run in one particular year, that should not overturn the prohibition on sales to foreign processors.

Mr. **Forsythe**. On a long-term basis.

Mr. **Weddig**. Yes.

Mr. **Forsythe**. What about in an emergency year?

Mr. **Weddig**. Yes, sir, we would in an emergency.

Mr. **Forsythe**. Your testimony indicates you support the capital construction fund provision. I would like to be specific on one point. Do you support the crossover provision which would allow U.S. fishermen to use CCF funds for the acquisition of onshore facilities and vice versa?

Mr. **Swicord**. Yes, sir, we do.

Mr. **Weddig**. And we would also suggest that the committee include in its language instructions that the capital construction fund be available for the use to purchase any capital requirement.

There are some considerations now which indicate that the fund can be used only for major overhaul and things like that, but we feel that the capital needs are capital needs, and if it means that a boat operator wants to buy a piece of new instrumentation, he should be allowed to use his accumulated capital construction fund for it, and a plant operator should be allowed to use his accumulated fund for the purpose of putting in a new production line, or to meet effluent standard requirements or other Government requirements.

Mr. **Forsythe**. With respect to the loan fund, you argue that low interest loans should be available only when the loan enables the vessel operator to "stay alive in order to produce a profit later in the year".

Are you saying that the fisherman who does not have a history of profitability in the past year or two and presumably cannot be expected to be a profitable operator in the upcoming year should not be allowed to participate in the fisheries loan program?

Mr. **Weddig**. We are not really intended it be restricted to the given year. I think the important point we wanted to make is that there should be the ability to repay that loan, that this is not something that is postponing the inevitable, but, rather, if you tide the operator over a particularly rough time, let him get started when it is possible to fish. Then the loan makes sense.

Whether it is this year or next year is not a particular concern of ours.

Mr. **Forsythe**. You believe that there should be a viable operator who has a potential of profitability and an ability to repay the loan?

Mr. **Weddig**. Yes, sir.

Mr. Fritschie. We have submitted language, Mr. Forsythe, on loan eligibility and on the restriction of the loan to operating capital for your consideration.

Mr. Forsythe. You recommend foreign fishing fees be increased on the basis of the tonnage of foreign vessels operated in the U.S. zone and not on the basis of value of catch harvested. Why do you prefer tonnage basis for determining fees?

Mr. Weddig. A couple of reasons. One is to simplify it and a second is looking ahead at the fish that are probably going to be there the longest time are going to be the low value fish.

Mr. Forsythe. On page 9, again, of your statement you urge the committee to amend 7039 to authorize NMFS to certify State and local agencies to provide export inspections for U.S. products and that NMFS supply these inspections at no charge.

Could you provide the committee with some additional information as to the necessity for this amendment and its cost?

Mr. Weddig. We can certainly provide additional information, Mr. Forsythe, but the situation is such that certain countries around the world, specifically in the Common Market, require a certificate of wholesomeness, and at this point in time they are saying this must come from the U.S. Government, not from another competent health agency.

In certain parts of the country the industry has worked with the local health authorities, whether they be city or county, for a long time and they have been using these. Now, they have to buy the inspection certificate by hiring the NMFS inspector, whereas, before it was provided for free as one of the services of the community in which they are paying taxes.

We would like to see NMFS be able to authorize those folks to issue certificates of wholesomeness that have the same authority.

Mr. Forsythe. Thank you very much.

Thank you, Mr. Chairman.

Mr. Breaux. Mr. Wyatt?

Mr. Wyatt. Mr. Swicord, on page 2 I have difficulty following what you are saying. "Per capita consumption has been on a steady increase." You go on later and say, "The root of the problem we face today is the erosion of the relative value we provide to the consumer, and the consumer is now speaking."

Are you saying that although per capita consumption is up the total consumption is down?

Mr. Swicord. No, sir. Those figures relate to per capital consumption through 1979. The root of our problem today—and by today we mean 1980—is the relative value of seafood products in light of the other proteins available in the marketplace.

Today, for instance, we lose a marketing war between convincing the housewife or the restauranteer to promote seafood as opposed to poultry. It is kind of hard to sell shrimp in a retail case at $9 and poultry at 39 cents a pound.

We have in this business about a $3 a pound limit and anything above that gets very difficult.

Mr. Wyatt. My next question. Since you have seen a recession coming for the last few months, have you detected any decline in price while the price of the shrimp at the dock is going down? Are we having any kind of decline in the price of shrimp at fish 'n chips outlets that you mentioned or in restaurants?

Mr. SWICORD. Not on a program, uniform basis, no, sir, which is one of the things we in the marketing end of the business think has contributed to the drop in per capita consumption during the first 5 months of 1980, the reluctance of the retailer and the reluctance of the food service operator to reflect lower pricings on his menu and in their stores to further evidence the relatively good value of seafood.

Mr. WYATT. So the lack of competitiveness is really coming from the retailer?

Mr. SWICORD. In some instances, yes, sir.

Mr. WYATT. That is all the questions I have.

Mr. BREAUX. Mr. Trible?

Mr. TRIBLE. Just one brief question. On page 3 of the statement you refer to the diverse constituency represented by the National Fisheries Institute. Could you be more specific and break down that constituency in terms of percentages——

Mr. SWICORD. Mr. Trible, I would like, if I could, let our staff respond to that since they keep up with those numbers.

Mr. WEDDIG. Mr. Trible, we have 950 member companies. Approximately 125 or so are in the associate category, which would include restaurant operators, chain store operators, insurance companies, trucking firms, cold storage warehouses and so forth.

We have about 50 international members, and then the balance, which would take it down to around 750 or 800 are the broad range of companies in the seafood business with the bulk of them being marketing companies, firms that sell a product, either as distributors or a brokerate. That is probably 50 percent. And the other 50 would be in the processing or production end.

Mr. TRIBLE. Thank you. No further questions.

Mr. BREAUX. Mr. Hughes.

Mr. HUGHES. Thank you, Mr. Chairman.

I want to thank the panel also. I just have a couple of very brief questions.

In the concluding paragraphs of your statement you indicate that you would like to see the States and other agencies certify, in some instances, the wholesomeness of incoming products, or outgoing products.

Can you tell us whether the States have that capability generally?

Mr. WEDDIG. It varies, Mr. Hughes. The area that we have particular problem is in the Northwest and there the States do have the capability of providing this inspection.

Mr. HUGHES. But you are talking particularly about the Northwest?

Mr. WEDDIG. That is where the problem is that we are trying to solve at this point in time.

Mr. SWICORD. To go further, Mr. Hughes, to answer your question, in those States which do export or participate in a tremendous amount of export goods, yes, they do have State and local agencies that are fully equipped to make those services available.

Mr. HUGHES. It might be helpful if you could submit to this committee some basic information you might have about the States that do have that capability because that would be one of the questions that I think the committee would have.

The second thing is, on page 8 of your statement you refer to the fact that some 3.6 billion pounds of fish now taken by foreign fleets is mostly of low value. The concern you express relative to phase-out of foreign fishing is that we might lose those markets for that product. Can you be a little more specific?

What you are saying is that our industries could not penetrate those markets for low value fish. On what basis do you arrive at that conclusion?

Mr. WEDDIG. On what? That we may lose the ability to market it?

Mr. HUGHES. That is correct

Mr. WEDDIG. Because in our opinion there are other places around the world where similar fish can be caught, and we are talking here of basic white fish products, which is the vast tonnage the hakes and the pollacks, and there are other places in the world where similar type fish exist.

Mr. HUGHES. And our fishermen would not be competitive?

Mr. WEDDIG. What we are concerned with is a situation that could develop where a foreign nation that depends on the product would immediately try to set up trade arrangements with another country in order to meet the same protein needs on a fishery-by-fishery basis, and we would then have them phased out but without having the ability to exercise the access provisions that we are also supporting.

We favor the phase out, sir, but we are looking at it on a slightly different basis than just saying, here it is; one, two, three.

Mr. HUGHES. The only thing that concerns me is that I think that part of your assumption is if, in fact, we do deny access to our waters by foreign fleets for the lower priced fish and lower value fish, then our fishermen could not pick up the gap and be price competitive in foreign markets.

Mr. FRITSCHIE. It is not necessarily a question of price competitiveness. There have been statements made that those fleets that are presently fishing off our shores—we are really not talking about the mid-Atlantic generally in this but on the west coast—would seek other fishing grounds and do their own fishing.

Mr. HUGHES. I understand that. They would move to other grounds. I understand that.

Mr. FRITSCHIE. And as long as they could do the directed fishing they have no incentive to buy from us. On the other hand, with the squid and butterfish off of your coast, if we did cut down the foreign fishing, there is a demand for those species both in Europe and in Asia, and since many of our members are processing those fish, we believe they could be sold in those foreign markets.

Mr. HUGHES. Thank you.

Thank you, Mr. Chairman.

Mr. BREAUX. Gentlemen, the sub-committee thanks you very much.

Mr. WEDDIG. Mr. Chairman, if I could indulge in one last thing to give you an example of consumer education since this is one of the provisions of your bill and the S-K program is used in consumer education. I would like to show you one of the more recent things that has been developed to aid in the use of underutilized species. I will bring it right up.

Mr. **Breaux**. Mr. Swicord, I remember when you became President of NFI, I think you said something to the effect that you are not part of the solution, you are part of the problem. I think your testimony and your association indicates that you are very much part of the solution and we appreciate your help and assistance. Thank you very much for your appearance.

Mr. **Swicord**. Thank you, Congressman.

Mr. **Breaux**. We would now like to welcome up Mr. Alan Macnow, testifying in an individual capacity.

STATEMENT OF ALAN MACNOW

Mr. **Macnow**. Thank you, Mr. Chairman and members of the committee.

Mr. **Breaux**. Before you start, I can't help but observe that the staff had spent 2 days working up questions on a statement you submitted earlier and this morning we get a brandnew statement that we have never seen before, which makes it somewhat difficult to digest and prepare any questions.

Mr. **Macnow**. I would like to apologize, Mr. Chairman, but, as you may know, I was in Japan for the past 2 weeks and I didn't have an opportunity to prepare the statement myself. The staff prepared it. I just thought it was bad, the one the staff prepared.

I beg your indulgence to accept one that I wrote myself.

Mr. **Breaux**. All right.

Mr. **Macnow**. Mr. Chairman, my name is Alan Macnow. I am a consultant to the Japan Fisheries Association and registered as such with the Justice Department. At this time, however, I am between contracts and have, therefore, chosen to speak to you on my own behalf as a citizen with a longstanding knowledge of the U.S. fishing industry and world fisheries.

I would like to enter the statement into the record, if I may, and I will summarize it.

Mr. **Breaux**. Without objection, the entire statement will be made part of our record.

[The following was received for the record:]

Statement of Alan Macnow, Tele-Press Associates, Inc.

Mr. Chairman and members of the Subcommittee, my name is Alan Macnow. I am a consultant to the Japan Fisheries Association and registered as such with the Justice Department. At this time, however, I am between contracts and have therefore chosen to speak to you on my own behalf, as a citizen with a longstanding knowledge of the U.S. fishing industry and world fisheries.

In my opinion, the intention of H.R. 7039 to assist in the development of the American fisheries industry is admirable. There are provisions in the bill which will be very helpful. Regretfully, though, the bill also contains provisions which, I am afraid, will not only impede development and lead to even more dislocations in the industry, but would also lose us a large share of whatever respect remains for us abroad.

To give some sense of perspective to the issues, let me remind you that the United States is by far the world's richest country. Our citizens enjoy the world's highest standard of living. We produce more food than we can eat and have a wealth of protein resources to choose from.

Our fishermen are not doing too badly either. Between 1976 and 1979, U.S. commercial fishermen increased their landings from 2.5 million tons of fish and shellfish, worth $1.4 billion at dockside, to a record 3.2 million tons worth $2.3 billion. That's a 28 percent increase in quantity and a 64 percent increase in value.

That's a big return. American fishermen increased their take, simply by getting priority to all the fish in the 200-mile zone, by almost $1 billion in only four years. At present, American fishermen are taking about 82 percent of the value from the fish resources harvested annually in the waters within 200-miles of U.S. coasts. The foreigners, who fish only for low valued fish surplus to U.S. requirements, take a modest 18 percent in terms of value.

In the U.S. FCZ, the zone beyond three miles and out to 200-miles from our shores, U.S. fishermen increased their catch by 107,000 mt between 1976 and 1979, a substantial 21 percent gain over 1976. Their increase in their catch of fish species formerly caught by foreign fishermen off U.S. shores totaled 94,893 mt, a gain of 47 percent between 1976 and 1979. This was significantly higher than the 28.4 percent increase in their catches of species which have been traditionally caught by Americans before passage of the FCMA.

Last year, 1979, was in fact a record year for American fishermen—a year of record landings and earnings. It was a year which saw the U.S. rise to fourth place in world fish landings, up from sixth place in 1976.

As for the fish processing sector, 1979 was hardly a depression year. The 1979 value of domestic production of edible and inedible processed fishery products was $4.7 billion, an increase of 34 percent and $1.2 billion since passage of the FCMA in 1976.

Since passage of the FCMA, in fact, almost every facet of the U.S. fishery industry has shown substantial gains, except for domestic per capita consumption of fresh and frozen fish. This declined from 8.3 pounds in 1976 to 8.0 pounds in 1979, perhaps because the consumer price index for fish went up higher and faster than form meat and poultry, despite a substantial increase in the production of fish.

In another area, fish exports, the record shows significant gains. In 1976, the United States exported only $385 million worth of fish products to other countries; in 1979, exports reached almost $1.1 billion. That was a 181 percent increase.

All of this hardly portrays a picture of an industry in need of additional federal assistance. If anything, it shows very healthy growth in everything except domestic per capita fish consumption.

Of course, a macro-view of an industry as diverse as the fishery industry does not reveal the bumps and hollows. There are areas in the fishery industry where the picture is not so rosy. Some fisheries are suffering from excesses brought about by over-expansion of production, rampant speculation, over-pricing of fish products and poor quality products. Some of these excesses were generated by overly broad government generosity.

The shrimp industry, for example, is suffering from a speculative binge which drove prices sky-high and encouraged the stockpiling of over-priced supplies. The Pacific sablefish, salmon and crab fisheries suffered the same fate for the same reasons, plus a headlong rush of new entrants into the fisheries which resulted in fish catches far in excess of market needs. On the east coast, the cod and haddock fisheries, while not hurt to the same extent as the west coast fisheries, saw prices of cod restrained by greatly increased harvests.

This year, 1980, is likely to be a hard year for many American fishermen, as it will be for many Americans in all industries—and for many foreigners. All are suffering from high fuel prices, high interest rates, inflation, and the consequent restraints on consumer spending. It will be a hard year, but one which will hopefully drain the excesses from the economic systems and restore a healthier balance to the economy.

I have not come to this hearing to criticize the provisions in HR 7039 dealing with S-K funds and the extension of government-guaranteed loans and tax deferrals to the fish processing sector, although as an American taxpayer I have grave reservations about such broad generosity at taxpayer expense. I would much rather see more selective assistance, because there are many in this sector who are more than capable of fully financing anything they want.

I also have reservations about the effect of these measures upon the healthy development of the fishing industry. I can see some very chaotic situations developing if, for example, processors use government guaranteed loans and tax deferments to build fleets of fishing vessels to compete against individually owned vessels. Conversely, it may not be all that healthy to have fishermen's cooperatives, some of which are already under investigation for alleged price fixing, also to control fish processing and distribution with government financial assistance.

I have additional reservations about the lure of such easy government assistance to speculators and people without experience in the fishery industry.

SECTION 301: FIVE-YEAR FOREIGN FISHING PHASEOUT COUNTERPRODUCTIVE AND WASTEFUL

Section 301 of HR 7039, which calls for a five-year phase out of foreign fishing, is a needless and wasteful measure which may prove very harmful to the United States and U.S. fishermen.

The measure is needless because the FCMA already provides for foreign fishing to be phased out as U.S. fishermen develop the ability and intention to harvest all of the fish in the 200-mile zone. An accelerated phase-out time-table will do nothing to improve the ability of domestic fishermen to catch the 1.6 million metric tons of low value fish harvested by foreign vessels in 1979, nor will it improve their ability to deliver a product acceptable in quality to foreign markets, nor will it change the fact that the investment needed to utilize such low value fish will far outweigh the income such fish can provide.

A recent analysis by the Institute of Social and Economic Research of the University of Alaska concluded that the development of the bottomfish industry in Alaska, for example, is likely to take at least 10 to 15 years, and that the best prospects for American development can be found in only a small portion of the resource. The analysis also noted that bottomfishing is not likely to provide a large new source of income to the state or even adequate local tax income to provide for local improvements to support the industry.

The intent of section 301 obviously is to cut foreign-caught supplies of 1.6 million mt of fish protein, in the hope that such an induced shortage will raise prices abroad for these low value fish to the point where it will be profitable for Americans to catch them. This though, was one of the purposes of passing the FCMA. The FCMA reduced foreign access to fish in the FCZ from a peak annual foreign catch of 3.5 million mt before passage of the law to 1.6 million mt in 1979. Foreign fishermen have already lost access to almost 2 million mt of fish in the FCZ, with little significant effect on the prices of the low value fish. Foreign demand for U.S. caught fish has centered upon the high value species, species for which the market could support the increases in price caused by export handling.

As for the more than 1.7 million mt of low value fish for which the FCMA denied access, foreign fishermen found other sources, made substitutions, or their markets did without.

In Japan, for example, catches of locally available mackerel and saury were greatly increased and substituted for low value fish formerly available from the FCZ. Japanese fishermen also developed new fisheries off the coasts of Africa and South America and in the southwest Pacific. Japanese importers also secured sources of low cost fish from the rapidly developing fisheries of low cost producers.

There is no assurance that the five-year phase-out provision of Section 301 will have any greater effect on creating foreign demand for U.S.-caught low value fish than did passage of the FCMA. On the other hand, it will surely force foreign fishermen into developing new fishing areas, from which some of their catch will enter markets in competition with American catches.

A brutal five-year phase-out of foreign fishing in the FCZ may also hurt American fishermen in other ways, too. For one thing, the foreign countries which now fish in the FCZ will no longer have incentive to buy U.S.-caught fish as a quid pro quo. On the contrary, they may have to buy significant amounts of fish from countries which permit their fishermen to develop new fisheries. Almost certainly, they will be forced to step up their imports of low value fish from countries which are low cost producers. The U.S. is hardly a lowcost producer, despite its abundance of fish.

If any one should doubt these predictions, I urge you to look at what is happening throughout the world. Canada and Mexico, both with no great domestic consumption of fish, are racing to become the world's foremost fish exporters. Argentina, since passage of the FCMA, has become a major factor in fish production and exports. In 1977, only 393,000 mt of fish were caught in Argentina; the 1980 catch is expected to total nearly 1 million mt. Add to that rapidly developing fisheries in Costa Rica, Cuba, Brazil, Angola, New Zealand and elsewhere. It's little wonder that most major world markets are glutted with fish, or that so much low cost fish was available in 1979 that the U.S. imported a record $3.8 billion worth.

Incidently, if U.S. fishermen cannot produce fish at a price and quality acceptable to the American market, why is it assumed that such fish will be acceptable to foreign markets? The U.S. imported 81,259 mt of frozen pollock, whiting and flatfish blocks last year because U.S. fishermen could not supply them at an acceptable price or quality. One large user even said he would buy such fish from U.S. producers at a premium if he could obtain acceptable quality. But he could not.

Another way in which this provision can hurt U.S. fishermen is by establishing a precedent for foreign countries seeking to limit U.S. fishing in their 200-mile zones. Mexico has already done this to U.S. shrimp fishermen, but may be persuaded to readmit them if given access to more fish off U.S. coasts. Mexico and other countries want to eliminate U.S. tuna fishing from their shores and are likely to take stronger action in this direction if the U.S. passes a law to phase out foreign fishing. The tuna industry accounts for 21 percent of U.S. food finfish earnings, thousands of jobs in the processing sector, and 25 percent of the food fish consumed in the United States.

A five-year phase out of foreign fishing also is likely to be counter-productive for U.S. fishermen because it eliminates any incentive for foreign countries fishing in the FCZ to assist the development of the U.S. fishery industry.

Just prior to introduction of HR 7039, I was in Japan for a three week period working out a program for Japanese assistance to the U.S. fishing industry. This program, I felt, would provide real help in developing U.S. production of underutilized species and in developing the Japanese market for such U.S.-caught fish. It included technical assistance in building a surimi processing plant in Alaska, promulgation of Japanese fish product standards in the U.S., the formation of a market development task force composed of Japanese and American industry leaders, technical assistance to U.S. fish processors and fishermen, and test market and U.S. product promotion activities in Japan.

I also was trying to work out a program whereby Japanese trading companies, through their extensive market channels throughout the world, would help market such over-produced U.S.-caught fish as salmon and crab to other countries, thus relieving the current glut in those products and providing for wider future distribution.

Some months previously, the Japan Deep Sea Trawlers Association, on its own, had developed a program to train U.S. fishermen in fishing and processing methods in Japan.

Needless to say, HR 7039 brought an abrupt halt to these plans. The confusion and dismay it provoked in Japan cannot be described. I just returned Sunday from a week in Japan with all segments of the fishing industry, where I had a difficult time coping with the anger and resentment generated by the bill.

I have attached to this statement a copy of a letter received from the Japan Deep Sea Trawlers Association which may give you a better idea of the impact of this bill on programs to aid the American fishing industry.

Five-year foreign phaseout undermines U.S. integrity

Judging from the reactions I saw in Japan, the integrity of the United States has been badly undermined by the provision for a five-year phase out of foreign fishing in the FCZ.

When the FCMA was being considered by Congress in 1975 and 1976, the foreign countries fishing off the coasts of the United States were given every assurance that traditional fishing rights would be respected and that, while U.S. fishermen were to be given priority in the FCZ, foreign fishing nations could continue to catch whatever fish were available for harvest but would not be utilized by U.S. fishermen. Congress took great pains to specify time and time again that these traditional fishing countries would not be barred from harvesting the fish surplus, and that every effort would be made to ease the economic dislocation caused by the expansion of the U.S. fishing industry under the FCMA.

Congress also was a party to the Governing International Fishery Agreement (GIFA) signed by the U.S. with each foreign fishing nation. These treaties promised that, in return for recognition of U.S. conservation and management jurisdiction over the fish resources in the FCZ, and a promise to observe U.S. fishery regulations, the United States would maintain the principle of optimum utilization of the fish resources and seek to minimize economic dislocation of the foreign fishermen.

The first blow to U.S. integrity came when the U.S. succumbed to political pressure from the U.S. fishing industry and found ways to avoid making the full surpluses available to foreign fishermen. The amounts of fish available for foreign harvest were reduced drastically through a number of devices, including unrealistically low estimates of resources, establishment of reserves, and inflated U.S. catch estimates. In some fisheries, regulations were devised to reduce the ability of foreign fishermen to catch the allowable surpluses. In many fisheries, such as the South Atlantic and Gulf of Mexico, no surpluses were ever calculated. And in some fisheries, foreign fishermen were simply denied access to the available surplus through late reallocations or no reallocations.

Now, HR 7039 proposes to lay American zenophobia out in the open. It is announcing to the world that the professed principles of the United States to ease hunger and make a better world do not apply to foreigners, even though we expect foreigners to support us at the risk of their own economies.

Even though the fish in the FCZ are a renewable resource, a resource which will always be available to Americans whenever they can use them, we are in effect saying to foreigners: "Though we can't catch them, and we can't eat them, and we can't use them, you can't have them."

How would Americans take it, I wonder, if the same provision were applied to American banana or rubber plantations in Central or South America, or to U.S. lumber operations in Canada?

The five-year foreign phase-out provision of Section 301 also contravenes an important provision in the United Nations Law of the Sea Agreement. This provision, heavily supported by the United States, is Article 62, which reads in part:

"1. The coastal State shall promote the objective of optimum utilization of the living resources in the exclusive economic zone;

"2. The coastal State shall determine its capacity to harvest the living resources of the exclusive economic zone. Where the coastal State does not have the capacity to harvest the entire allowable catch, it shall, through agreements or other arrangements . . . give other States access to the surplus of the allowable catch . . ."

SECTION 302—10 PERCENT ADDITIONAL TAX ON FOREIGN FISHING EXCESSIVE

The provision to add an additional fee amounting to 10 percent of the landed value to fish caught by foreign fishermen would be considered highly discriminatory and confiscatory if placed on U.S. operations abroad. Applied to the foreign fishery in the FCZ, it will have the effect of bringing foreign fishing to a dead stop, without even the need for a five-year phase-out of foreign fishing.

Currently, foreign fishermen pay a relatively high price to fish in the FCZ. They pay a fishing fee equal to 3.5 percent of the landed value of the fish they catch, plus a 10 percent surcharge on this for the Fishermen's Compensation Fund, plus tonnage fees for each vessel in the fishery, plus observer costs on about 20 percent of their vessels.

I do not know what all foreign fishermen pay to fish in other parts of the world, but Japanese fishing fees in all other parts of the world average about 4 percent of the landed value of the fish caught. Most countries charge about 3 percent, according to a Japanese government official I spoke to in Japan.

The All Japan Seaman's Union estimated that an additional 10 percent fishing fee, loaded onto the fishing fees, surcharges, vessel fees and observer costs already paid by foreign fishermen, would bring total fees paid by foreign fishermen up to 14.85 percent of the landed value of the fish. This, added to the incresed costs of fuel and operations, will make it prohibitive to fish in the FCZ.

The high price of fish in Japan already has cut deeply into Japanese fish consumption, with the result that fish now accounts for less than 50 percent of Japanese animal protein consumption. An additional 10 percent increase in fish costs, if it does not stop foreign fishing altogether, will result in reduced demand for fish and a consequent reduction in foreign fishing in the FCZ. Such a reduction may not only affect the ability to develop a fisheries development fund for the benefit of American fishermen, but may also result in a reduction of the share of FCMA management costs now borne by foreign fishermen. This will mean that U.S. taxpayers will have to pick up a greater share.

If the intent of Section 302 is to make it less costly to buy fish from U.S. fishermen than for foreigners to catch the fish in the FCZ, let me point out two cautions:

First, experience has shown that U.S. prices will rise to whatever protection level is established, as witness the U.S. steel industry's history of pricing in response to mimimum price levels set on imports of steel.

Second, there are a lot of countries eager and willing to sell comparable types of fish at prices considerably lower than those of the United States. North Korea, for example, recently offered to sell Japan a substantial quantity of pollock from the Soviet 200-mile zone in return for fisheries development assistance.

Apart from such practical considerations, the 10 percent additional fishing fee also appears to violate some important international principles. First is the principle that international access to renewable natural resources should not be unduly restricted. There would be an immediate outcry in the United States if a discriminatory 15 percent tax were placed on U.S. tuna vessels in foreign waters, or on U.S. banana or rubber plantations.

Non-discrimination in international business also is an important principle in international trade. A 15 percent fee applied only to foreigners, for the benefit of a domestic industry, is highly protectionist and would be condemned by Americans if it were placed on U.S. bank operations or U.S. manufacturing facilities abroad.

SECTION 201: DISCRIMINATORY FEDERAL ASSISTANCE UNDUE INTERFERENCE IN MARKET

The provision in Section 201 restricting federal financial assistance in the form of loan guarantees, tax deferments and development funds to only those companies which have at least 75 percent U.S. ownership may constitute undue interference in the market and create hardships for thousands of Americans.

In effect, such a provision would give companies with 75 percent or more U.S. ownership a significant competitive advantage over companies which have 25 percent or 26 percent or more of their stock held by foreigners. This competitive advantage would be significant enough to put many of the processors in Alaska out of business, leading both to the reduction in markets for U.S.-caught fish and the unemployment of thousands of processing plant workers, Americans all.

Fish processing companies with investments from foreigners for the most part are operated and directed by Americans, not foreigners. Only a small handful of fish processing companies in Alaska have 50 percent or more foreign investment. And all of these fish processing companies employ American workers, pay taxes to local and federal governments, and provide employment for American fishermen by buying their fish. They all operate under the same conditions at the same price, paying workers on the same scale, and buying fuels and materials for about the same price.

Moreover, a recent study of fish processing ownership pointed out that those companies which had more than 25 percent foreign ownership had done more to develop markets for U.S.-caught underutilized species than companies which were solely owned by Americans.

The competitive advantage given to one group of fish processors by federal assistance and not to all would cause a severe disruption in the U.S. fish processing sector. Some of the likely effects, in addition to loss of markets for American fishermen and unemployment for American citizens in processing plants might be:

1. An unwholesome concentration of fish processing capacity in the hands of very few companies, possibly leading to monopolistic control of fish supplies and markets;
2. Economic and social disruption in communities dependent on a local processing facility owned 25 percent or more by foreign stockholders;
3. A loss of tax revenues for the local community, the state and the federal government;
4. The bankruptcy of U.S. processing plants caused by a withdrawal of foreign financing;
5. Loss of foreign technical assistance and markets;
6. The potential loss of foreign capital for future development and an increased burden on U.S. taxpayers;
7. The potential application of the same provision by foreign countries against U.S. processors operating in their countries. Many U.S. fish processors have plants or subsidiaries in a large number of foreign countries, such as Canada, Mexico, Costa Rica, Panama, Japan and the Phillippines.

SECTION 311: 100 PERCENT OBSERVER COVERAGE IN EXCESS OF ACTUAL NEED

Section 311 of HR 7039 would require that there be 100 percent observer coverage on all foreign fishing vessels in the FCZ, despite the fact that the National Marine Fisheries Service has determined that there is no need for such extensive coverage.

The NMFS also has pointed out that observer coverage is not needed when a vessel is in transit from one fishing ground to another.

The requirements in the bill for 100 percent observer coverage appears to be just another means to increase the fishing costs of foreign fishermen and discourage their fishing in the FCZ.

There is, I know, extensive concern among U.S. fishermen that foreign fishermen are not reporting, or are under-reporting, their catches. I would like to point out, though, that the U.S. Coast Guard, which has primary responsibility for enforcement, has made over 3,200 inspection boardings of foreign fishing vessels in the past three years. During that time, less than 20 seizures were made of foreign fishing vessels for illegal fishing.

Foreign fishing vessels are more afraid of the spot checks made by the Coast Guard than of observers, who often have other duties to perform and cannot be on deck during all of the fishing operations. Few foreign vessels, as the record shows, would run the risk of having illegal fish on board when subject to spot checks at any moment by experienced Coast Guard enforcement personnel.

The 100 percent observer coverage, therefore, is not only unnecessary but is less effective as an enforcement device than the Coast Guard.

SECTION 301: TRADE BARRIER PROVISION MAY BE MISUSED

Section 301 calls for making the presence of foreign trade barriers a consideration in the allocation of surplus fish to foreign vessels in the FCZ.

On the surface, this seems like a reasonable provision, although somewhat hypocritical in view of the fact that both this bill and some current U.S. import duties are more protectionist than almost anything to be found in foreign countries. For example, the U.S. has prohibitively high import duties on canned tuna in oil, canned sardines, fish sticks and some other manufactured fish products.

This consideration apart, a determination of the existence of trade barriers is often a very subjective thing. Too often in the past, rejection of U.S.-caught fish products by foreign countries on the basis of low quality or improper product form for the market has been interpreted as a trade barrier. So has failure on the part of a U.S. seller to find the proper importer for his product.

This type of a provision is too open to individual judgement and political pressures from the domestic fisheries constituency. The determination of Trade Barriers should either be quantified with precision in the bill, or left up to the judgement of experienced government officials, as it now is under the provisions of the FCMA.

Thank you for letting me make my views known to you today. I hope you will give consideration to my comments and redesign HR 7039 so that it will help the development of the U.S. fisheries industry without contributing to the wastage of renewable fish resources, the impairment of U.S. integrity, or the disruption of developmental assistance offered by the foreign nations fishing in the FCZ. I shall be happy to answer any questions the committee may have.

Japan Deep Sea Trawlers Association,
Tokyo Japan, May 6, 1980.

Mr. Alan Macnow,
Tele Press Associates Inc.,
New York, N.Y.

Dear Mr. Macnow: I greatly appreciate all your efforts to help Japanese fishing industry in many ways.

Recently, Congressman, Mr. Breaux submitted the Bill title "Omnibus Fisheries Development Bill" to U.S. House Fisheries Committee. On this regard, I would like to listen to your opinion on behalf of Japan Deep Sea Trawlers Association.

As you know, since members of our association are highly depended upon their fishing operations in the U.S. FCZ. they have been quite confident that cooperation and friendship with U.S. Government and U.S. fishing industries are indispensable for their future benefits and been considering and promoting the following plans in order to assist the development of U.S. fisheries—

To provide technical assistance and information when U.S. citizen want to construct on-shore Surimi plant in Alaska,

To promote the purchase of pollock at sea from U.S. fishermen in Alaska waters,

To promote technical instructions to fishermen,

To introduce American species such as Alaska Pollock, Squid, Butterfish, etc. into the Japanese market.

We have already invited three fishermen from New England area to Japan for about one month from the end of June, as we want them to know real conditions of operations of Japanese Fishing Vessels and Japanese market and to train fishing and processing techniques here.

Now we are consulting with NMFS in Gloucestor regarding schedules and detailed plan. We also have a plan to invite two Atlantic Regional Council members to Japan as we want them to see and understand the conditions of Japanese market.

However, we were really surprised and embarrassed to see the "Omnibus Fisheries Development Bill" which includes provisions such as to phase out all foreign Fishing Vessels from The U.S. FCZ over five years and to collect 10 percent of additional Foreign Fishing Fee.

As far as this Bill is concerned, all our efforts and cooperations to assist the development of U.S. fishing industries described above are appeared to be meaning less and irrelevant.

Now my question to you is whether at this point we should continue our cooperation plans described above, or we should change our partner to other foreign nations which evaluate more fair and respect our efforts and expenses. I shall be waiting for your reply.

Sincerely yours,

Hiroshi Tominaga, *President.*

Mr. **Macnow**. The intention of H.R. 7039 to assist in the development of the American fisheries industry is admirable. The American fisheries industry is, compared to other world fisheries industries, at a very low stage of development and does need a good deal of assistance.

I would like to point out that my clients, the Japan Fisheries Association, has been, in some respects, trying to provide some of that assistance.

Over the past 5 years, the fisheries industry generally throughout the world has been in a boom phase. There has been good growth in the fisheries industry of every country, especially in the United States.

I don't need to go over the statistics but, of course, you all know that last year was a record year for the United States in both catch and earnings. It was a record year for the processing sector. It was a year, though, which showed the beginnings of some problems, many of which were due to, I think, the over-rapid entry of the producing sector without having an equivalent buildup in the markets for the fish.

There have been some comments made in the past that the foreign fishermen are taking 66 percent of the fish from the FCZ. I would like to point out that the U.S. fisherman has increased his catch from that area very much since the passage of the FCMA.

I would also like to point out that although the foreigners take about 1.6 million tons of fish from waters within 200 miles of the United States, this is, as Mr. Swicord has said, very low-value fish.

American fishermen are, in fact, taking about 82 percent of the fish from the waters within 200 miles of the United States in terms of value. The foreigners are only taking 18 percent in terms of value. I think this is a very important point.

Most of the value of the fish that is in the 200-mile zone is already being taken. It is being taken by American fishermen.

In respect to the bill, 7039, I am, of course, very concerned about the 5-year phaseout provision. I think that it is not really necessary, and I think it would be very wasteful. It is not really necessary because the FCMA already provides the foreign fishing to be phased out as U.S. fishermen develop the ability and the intention to harvest all of the fish in the 200-mile zone.

An accelerated phaseout timetable will do nothing to improve the ability of domestic fishermen to catch the 1.6 million metric tons of low-value fish harvested by foreign vessels in 1979.

Nor, will it improve their ability to deliver a product which is acceptable in quality to foreign markets. Nor, will it change the fact that the investment needed to utilize such low-value fish will far outweigh the income such fish can provide.

A recent analysis by the Institute of Social and Economic Research of the University of Alaska concluded that the development of the bottom fish industry in Alaska, for example, is likely to take at least 10 to 15 years.

The best prospects for American development can be found only in a small portion of the resource. The analysis also noted that bottom fishing is not likely to provide a large new source of income to the State, or even adequate local tax income to provide for local improvements to support the industry.

I think later this afternoon you will hear from Mr. Jim Edenso, the bottom fish coordinator for the State of Alaska. I don't know what his testimony will be. I do know that in previous discussions he has indicated—it has been his opinion—even if the United States doubled the amount of bottom fish taken from the waters off Alaska every year, it would take at least 15 years for the U.S. industry to be able to utilize it all.

The intent of section 301 appears to be to cut off foreign low-cost supplies of fish protein in the hope that such an induced shortage will raise the prices abroad for those low-value fish to the point where it will be profitable for Americans to catch them.

This, though, was one of the purposes of passing the FCMA. The FCMA, in fact, reduced foreign access to fish in the FCZ from the peak annual foreign catch of 3.5 million metric tons before passage of the law, to 1.6 million metric tons in 1979.

Foreign fishermen have already lost access to almost 2 million metric tons of fish in the FCZ. But this has produced little significant effect on the prices of the low-value fish.

Foreign demand for U.S.-caught fish has centered upon the high value species, species for which the market could support the increases in price caused by export handling. As for the more than 1.7 million metric tons of low-value fish, for which the FCMA denied access, foreign fishermen found other sources. They made substitutions for the markets or did without.

In Japan, for example, catches of locally available mackeral and saury were greatly increased and substituted for low-value fish that were formerly caught in the FCZ. Japanese fishermen also developed new fisheries off the coast of Africa and South America and in the Southwest Pacific. And Japanese importers secured sources of low-cost fish from the rapidly developed fisheries of low-cost producers.

There is no assurance that the 5-year phaseout provision of section 301 will have any greater effect on creating foreign demand for U.S.-caught low-value fish than did passage of the FCMA.

On the other hand, it would surely force foreign fishermen into developing new fishing areas from which some of their catch will enter markets in competition with American catches. And a brutal 5-year phaseout of foreign fishing in the FCZ may also hurt American fishermen in other ways too.

For one thing, the foreign countries which now fish in the FCZ will no longer have incentive to buy U.S.-caught fish as a quid pro quo. On the contrary, they may have to buy significant amounts of fish from countries which permit their fishermen to develop new fisheries.

Almost certainly, they will be forced to step up their imports of low-value fish from countries which are low-cost producers. The United States is hardly a low-cost producer, despite its abundance of fish.

If anyone should doubt these predictions, I urge you to look at what is happening throughout the world. Canada and Mexico, both of which have no great domestic consumption of fish, are racing to become the world's foremost fish exporters.

Argentina, since passage of the FCMA, has become a major factor in fish production and exports. In 1977, only 393,000 metric tons of fish were caught in Argentina. The 1980 catch is expected to total nearly 1 million metric tons. Add to that rapidly developed fisheries in Costa Rica, Cuba, Brazil, Angola, New Zealand, and elsewhere.

It is little wonder that most major world markets are glutted with fish, or that so much low-cost fish was available in 1979 that the United States imported a record $3.8 billion worth.

Another way we think that the 5-year phaseout can hurt U.S. fishermen is by establishing a precedent for foreign countries seeking to limit U.S. fishing in their 200-mile zones.

Mexico has already done this to U.S. shrimp fishermen but may be persuaded to readmit them if given access to more fish off U.S. coasts. Mexico and other countries want to eliminate U.S. tuna fishing from their shores and are likely to take stronger action in this direction if the United States passes a law to phase out foreign fishing.

The tuna industry accounts for 21 percent of U.S. food within the fish earnings, thousands of jobs in the processing sector and 25 percent of the food fish consumed in the United States.

The 5-year phaseout of foreign fishing also is likely to be counterproductive to U.S. fishermen because it eliminates any incentive for foreign countries fishing in the FCZ to assist the development of the U.S. fishery industry.

Just prior to the introduction of H.R. 7039, I was in Japan for a 3-week period trying to work out a developmental program for the Japanese to assist American fishermen. This program which we were putting together would provide some real help in developing U.S. production of underutilized species and in developing the Japanese market for such U.S. caught fish.

It included technical assistance in building a surimi processing plant in Alaska, promulgation of Japanese fish product standards in the United States, the formation of a market development task force composed of Japanese and American industry leaders, technical assistance to U.S. fish processors and fishermen, and test marketing and U.S. product promotion activities in Japan.

It also included the establishment of a joint venture with Alaskan fishermen.

I also was trying to work out a program whereby Japanese trading companies, through their extensive market channels throughout the world, would help market such over-produced U.S. caught fish as salmon and crab to other countries, thus relieving the current glut in these products and providing for wider future distribution.

In addition to my efforts, some months previously, the Japan Deep Sea Trawlers Association, on its own, had developed a program to train U.S. fishermen in fishing and processing methods in Japan.

Needless to say, H.R. 7039 brought an abrupt halt to these plans. The confusion and dismay it provoked in Japan—it is hard for me to describe it. I returned just last Sunday and in the 2 weeks prior I met with all segments of the fishing industry. I had a very difficult time coping with their anger and resentment over this particular provision.

I have attached to the statement a copy of a letter received from the Japan Deep Sea Trawlers Association which may give you a better idea of the impact of this bill on programs to aid the American fishing industry where we're being considered by the Japanese fishing industry.

This 5-year phaseout also, I think, undermines greatly American integrity. When the United States was considering establishing a 200-mile limit, passing the FCMA, this bill, the FCMA, was sold to the world as a fish conservation act, although everybody was aware that it also was designed to give the U.S. fishermen an opportunity to utilize those fish which the foreign fishermen were using.

However, there was great doubt whether countries like the U.S.S.R. and Japan would respect the U.S. declaration of jurisdiction. And Congress made very sure to obtain acknowledgement from these countries that they would respect the U.S. unilateral extension of jurisdiction.

Foreign countries like Japan, the U.S.S.R., West Germany, were sold on this by promises from the Government, from Congress, that the United States would, in the traditions of world sentiment, make whatever fish available for harvesting which were surplus to U.S. needs available to the foreign fishermen who were already fishing in those areas.

This is fish which is a valuable protein resource. It is fish which would be wasted. It was fish that would die if not taken. It is fish which can be used.

As part of the FCMA, therefore, and an important part, the principle was put forth that surplus fish would be made available for fishermen who had been traditionally fishing those fish to get if they were surplus to the need of the United States.

None of the foreign countries expected to be fishing in the 200 miles forever. They all knew that the U.S. industry would grow, that it would develop, that the U.S. fisherman would take over fishing in the zone.

They had no objection to that. They still have no objection to that. What they do object to is the waste of fish, and even though the bill has a provision in it for the Secretary of Commerce to determine whether or not there would be wastage by continuing the timetable of a 5-year phaseout.

Over the past 3 years, foreign fishermen have had the kind of experience with the FCMA which has convinced them that there would be loopholes found through force of political pressure which would serve to convince the Secretary of Commerce that there really is no wastage no matter how much fish is out there and not being caught.

Japanese and other foreign fishermen have had fairly bad experience with the way the United States has implemented the FCMA in that even though surpluses were supposed to be allowed to be fished by foreign fishermen, every type of device was conceived by the Department of Commerce and by the Regional Management Councils to try to cut down the amount of that surplus.

In fact, in two areas—the South Atlantic and the Gulf of Mexico—no surpluses have ever been declared although there are known to be large resources of squid in the South Atlantic, there are known to be hake resources in the Gulf of Mexico. Still, no surpluses are declared.

These management plans are written in a way as to set up management areas in which the American fishermen are fishing and then declare that only their catch is what the OY is.

Mr. Breaux. I don't want to interrupt you but how is the summary coming?

Mr. Macnow. I will speed it up.

I think if the same type of foreign phaseout were applied to other types of renewable resources the United States wouldn't like it too much. The United States has banana plantations in South America, rubber plantations, it cuts timber up in Canada.

These are renewable resources that the U.S. citizens are taking. They are not treated the same way by the citizens of those countries.

In regard to the 10-percent additional fee on foreign fishing, this is a rather high fee compared with the world average, which, I understand from government officials in Japan runs somewhere around 4 percent.

Loaded on to the fees that foreign fishermen already pay, 3.5 percent of the value of the catch, they pay a fee for tonnage on their vessels, they pay a 10-percent surcharge on all the other fees to be put into the Fishermen's Protective Fund, and they pay for observers.

This 10 percent would bring total fees to almost 15 percent of the landed value of the catch. A rather high fee.

If the intent of adding this high fee is to equalize cost between foreigners and Americans, I think it is a little bit excessive. I think that the U.S. fishermen already have provisions within the FCMA and the fact that foreign fishermen do have to pay fees, they do have to pay the 10-percent surcharge, they do have to pay for observer costs, they do have to pay tonnage fees, none of which the American fishermen have to pay, there is a differential built into it already.

It has been stated that it is necessary to equalize costs between subsidized foreign fleets and American fishermen. I would like to point out that Japan does not subsidize the operation of its fishermen, and the only subsidies that are there are the same type of subsidies that are available to American fishermen in that low-cost loans are made available for construction of new vessels.

Apart from the practical considerations, the 10 percent additional fishing fee also appears to violate some important international principles. First is the principle that international access to renewable natural resources should not be unduly restricted.

There would be an immediate outcry in the United States if a discriminatory 15-percent tax were placed on U.S. tuna vessels in foreign waters, or on U.S. banana or rubber plantations.

Nondiscrimination in international business also is an important principle in international trade. A 15-percent fee applied only to foreigners, for the benefit of a domestic industry, is highly protectionist and would be condemned by Americans if it were placed on U.S. bank operations or U.S. manufacturing facilities abroad.

On section 201 of the bill, which proposes to withold the assistance benefits of the bill to any firm which has more than 24 percent foreign investment this is a very discriminatory aspect with many of these firms which do have more than 24 percent foreign investment.

You are really talking about American firms. Japanese firms, those with 100 percent down to 50 percent foreign investment, constitute only a handful of the processing companies and I think by allowing Government assistance in the form of tax deferments or Government-guaranteed loans to those which have 75 percent American ownership, it is imposing a competitive disadvantage to those others.

There are Americans employed by companies which have foreign investment in them. There are thousands of American workers working for these processing companies which have foreign investments in them.

You are placing the companies, and the people they employ, and the communities in which they live, at a very difficult disadvantage, one that could, in these difficult times, force them into bankruptcy with resulting unemployment, disruption of the community and a loss of tax both to the community, the State and the Federal Government.

I would hope that that provision would be changed to make it more equitable.

In section 311 it is proposed to have 100 percent observer coverage on foreign vessels. The National Marine Fisheries Services has already pointed out that this is excessive, that 100 percent is not needed and that the level at which observers are now placed on board statistically gives a good indication of information to show what the foreigners are doing in the U.S. FCZ.

NMFS also pointed out that observers are not needed aboard vessels that are in transit from one fishery to another.

The more important aspect of enforcement is not with the observers but with the Coast Guard. The Coast Guard makes spot checks very frequently on foreign vessels. In the past 3 years they have made checks and searches on 3,200 foreign vessels and they have come up with only 20 violations serious enough to warrant seizures.

Coast Guard enforcement by trained professional Coast Guard people has a greater enforcement effect than an observer program which just is another factor to add cost to foreign fisheries operations.

Finally, I am concerned about section 301, which calls for making the presence of foreign trade barriers a consideration in the allocation of surplus fish to foreign vessels in the FCZ.

On the surface, this seems like a reasonable provision, although my feeling is, as an American, that it is somewhat hypocritical in view of the fact that both this bill and some current U.S. import duties are more protectionist than almost anything to be found in foreign countries.

For example, the United States has prohibitively high import duties on canned tuna in oil, on canned sardines, fish sticks and some other manufactured fish products.

But this consideration apart, a determination of the existence of trade barriers is often a very subjective thing and too often in the past, rejection of U.S. caught fish products by foreign countries on the basis of the low quality of the American fish product or improper product form for the market has been interpreted as a trade barrier.

So has failure on the part of a U.S. seller to find the proper importer for his product. This type of a provision is too open to individual judgment and political pressures from the domestic fisheries constituency.

The determination of trade barriers should either be quantified with precision in the bill or left up to the judgment of experienced Government officials, as it is now under the provisions of the FCMA.

That is a summary of what I have to say. I would like to thank you for letting me make my views known to you today. I apologize if it is a long summary but I am the only one, I think, with an opposing voice here.

Mr. **Breaux**. We thank you for your testimony, but next time I am going to insist you read it, that will be shorter. [Laughter.]

I do thank you for your statement and I do recognize that your position is contrary to most of the witnesses that we have had and, of course, we are going to have a fair set of hearings and want to hear from all different sides.

I do note, however, that your statement contains a number of gross inaccuracies that need to be challenged.

I note that you claim that the integrity of the United States is being challenged by a proposal to phaseout foreign fishermen.

You say that the phaseout contravenes an important provision of the United Nations Law of the Sea negotiating text and you cite two provisions of article 62. But in the second part of the article you have three little dots, which means something was left out.

I probably wouldn't have paid much attention to that, except I have some staff that have written books on the Law of the Sea and they wanted me to see what the three little dots represented.

The deletion represents some very significant things, like a whole page of statements as to what the United States could do with regard to whether and under what conditions we have foreign fishermen within our zone.

Just to note, you quote article 62 as saying,

> Where the coastal State does not have the capacity to harvest the entire allowable catch, it shall, through agreements or other arrangements . . . give other States access to the surplus of the allowable catch. . .

The three little dots that are there at midsentence are very significant, what is left out says, "and pursuant to the terms, conditions and regulations referred to in paragraph 4", and paragraph 4 is an entire page of items that a coastal State, i.e., the United States in this instance, could set out as terms and conditions before any foreign nation comes in and fishes within our zone.

That is applicable to all the nations of the world—licensing of those fishermen, payment of fees, determining what they can catch, when they can catch it, a whole page of conditions. I think those three little dots in your statement don't really tell the whole story. Do you agree?

Mr. **Macnow**. No, I didn't consider it relevant because those——

Mr. **Breaux**. Not relevant?

Mr. **Macnow.** No, sir. It doesn't say anything about witholding a biological surplus. It just says permits can be issued. It says——

Mr. **Breaux.** But surely you don't insist that notwithstanding paragraph 4, which sets out all the conditions, that if a foreign country doesn't meet the conditions that the coastal State sets out, the coastal State still has to allocate any surplus to the foreign nation. Do you follow my reasoning?

Mr. **Macnow.** As long as any State——

Mr. **Breaux.** It means that if foreign fishermen are going to fish within our zone, they are going to have to meet the terms and conditions of the coastal State—and it is pretty specific as to what we can do—and if the foreign nation doesn't agree to those conditions or cannot satisfy them, surely you don't insist that we still have to allocate any surplus to that foreign nation, do you?

Mr. **Macnow.** Is there any question the foreign nations are not abiding by the regulations that the United States has set out as terms——

Mr. **Breaux.** Do you want to discuss enforcement now? Do you want to talk about enforcement with regard to Japan fishing within our zone?

Mr. **Macnow.** Yes, sir.

Mr. **Breaux.** Let's talk about that. The National Marine Fisheries Service sent us a memo dated May 14, 1980 which points out that Japanese violations in 1979 and into 1980 were far more serious than any other country—nine major violations, as opposed, for instance, to three major violations by Taiwan, three by South Korea, one by the Soviet Union and one by Poland.

NMFS, says:

> This appears to be a formidable and possibly preplanned effort at noncompliance with the regulations. Under-loggings range from 25 to 60 percent.

And that is not John Breaux. That is NMFS. Is that complying with the terms and conditions for fishing within our zone?

In 1979, Japan's overall violations were by far the greatest—147 violations as opposed to 87 for Italy and 50 for Spain. And then it drops off really dramatically. Is that abiding by the regulations that paragraph 4 of ariticle 62 says that we can set out?

Mr. **Macnow.** I would like to point out, Congressman, that these are individual vessels and that Japan has far more vessels fishing in the FCZ than any other country.

Mr. **Breaux.** So what, they have a lot of boats and they have a lot of violations.

Mr. **Macnow.** They should not violate any of the terms and conditions. I agree with you. And everytime they do I fire off Telexes to Japan, we go back to Japan, we try to educate the captains. We are trying to clear up this situation.

Mr. **Breaux.** Section 311 of our bill provides for 100 percent observers, and you say:

> Section 311 of the bill would require that there be 100 percent observer coverage in all foreign fishing vessels in the FCZ despite the fact that the National Marine Fisheries Service has determined that there is no need for such extensive coverage.

The same memo to me says:

> We feel that the most effective means available to us (NMFS) in our efforts to control this problem is the use of increased observer coverage on board foreign fishing vessels.

And then, as I noted, they go on to point out that underreporting is anywhere between 25 and 60 percent. Now, how can you say that NMFS has determined there is no need for such extensive coverage when the memo says just the opposite?

Mr. **Macnow**. I was quoting, Congressman, from Mr. Frank's testimony before this subcommittee on the 6th, in which be felt that there was no need for 100 percent observer coverage, unless I read this wrong.

Mr. **Breaux**. What about the statement I just read from the memo that there is a tremendous need for much greater coverage?

Mr. **Macnow**. I haven't read the memo that was sent to you——

Mr. **Breaux**. I just read it to you.

Mr. **Macnow**. I did read the testimony that Mr. Frank made.

Mr. **Breaux**. What about this? I'm reading it to you—I know you haven't read it but I have just read it to you, saying that the most effective means available to us in our enforcement efforts is the use of increased observer coverage on board foreign fishing vessels. How do you feel about that?

Mr. **Macnow**. I can't quarrel with his opinion but I think that more effective is the Coast Guard and Coast Guard enforcement.

Mr. **Breaux**. One of the major differences, of course, is that the Coast Guard effort is at the U.S. taxpayers' expense and that the observers are paid for by the foreign fishing operations in our zone.

Let's talk about the second thing that gives me concern, despite the fact that I think your position is totally in consistent with article 62, among other provisions, of the Law of the Sea Conference negotiating texts. You refer in your testimony to the question about the phase-out being inconsistent with the GIFA that we have signed with Japan.

Your statement says that Congress was a party to the GIFA signed with the foreign countries and that in that GIFA we promised to observe the fishing regulations that the foreigners agreed to do, that the United States would maintain the principle of optimum utilization of the fish resources and would seek to minimize economic dislocation of the foreign fishing nations.

I think, if you read the agreement signed with Japan, article 5 says, "in determining the portion that may be made available to fishing vessels of Japan in accordance with article 4, Paragraph 1B of this Agreement, the Government of the United States shall promote the objective of optimum utilization and take into account, inter alia," and a whole list of things in determining whether we grant an allocation of fish.

Of course, the GIFA must be consistent with the law that authorized it, the FCMA. Economic conditions in the U.S. can be considered in determining allocations. Social conditions can be considered. Ecological factors can all be considered. I am bringing that to your attention, because I don't see how you can say that a bill which ties the Foreign fishing allocations under a phaseout to surplus is a violation of the GIFA. The phaseout is based on economic and social factors which can be considered by the United States under the GIFA.

Can you be more specific as to how the phaseout violates the GIFA?

Mr. Macnow. The principle of optimum utilization is one that indicates that a country should utilize whatever fish can be harvested within a——

Mr. Breaux. And we should promote that objective.

Mr Macnow. And promote that objective.

Mr. Breaux. It doesn't say, "shall achieve" it. You should have optimum utilization. It says you shall promote it, and in doing that you can take into account all these other considerations, economic and social among them.

I think that the two points you make on the phaseout are incorrect. I think the phaseout is totally consistent with the Law of the Sea negotiating text.

As regards the GIFA with the Japanese and with other foreign countries, I think the phaseout is again totally consistent.

Let me talk about the beginning of your statement where you discuss the growth of U.S. industry. Certainly, there are examples of growth, but I am concerned about the figures you use.

On page 2, you talk about the increase of our landings in saying between 1976 and 1979 there was a 28 percent increase in the volume and 64 percent increase in the value. The figures that we have from NMFS point out some different things.

No. 1, the total catch in our zone in 1976 was 3,088 tons, and in 1979, it was 2,444 tons of fish, a decrease.

The U.S. percentage of the total last year was 33 percent as opposed to 23 percent in 1976, but the total volume is really substantially down. If you look at the volume, our real growth in that period, was only an increase of about 1 percent per year, in terms of displacement of foreign fishing.

Also, you mentioned the tremendous increase by value in saying that in the beginning, when we passed the FCMA, the value of the fish that we caught was 75 percent of the fish within our zone and that it increased to something like 82 or 83 percent in 1979.

NMFS points out that that statement on its face may be true, but that also takes into consideration the area between the baseline, zero, and 3 miles out, which really is not affected by the FCMA, because it was already under our exclusive jurisdiction. That area has always been our territorial sea in which no foreign fishing has been permitted.

The area that counts to determine our growth in relation to foreign fishing is from 3 miles to 200 miles. NMFS says that we take only 55 percent of the value of the fish in that area—up from about 47 percent when the FCMA was passed. That is a real growth in the value of the fish that are caught within the zone of under 3 percent per year.

Mr. Macnow. I am using NMFS's figures.

Mr. Breaux. But by the value you are using includes zero to 3 miles, which really shouldn't be used, because it is not affected by the FCMA; isn't that correct? That was already under our exclusive jurisdiction.

Mr. Macnow. I am using two sets of figures. I am using zero to 200 when I talked about the overall catch.

Mr. Breaux. Which really is a little misleading, because the FCMA doesn't affect the area from zero to 3.

Mr. **Macnow**. And I am also talking about 3 to 200, and I think the NMFS figures that you have have taken out of them some of the nonfood fish caught in there. I know there is a difference.

Mr. **Breaux**. Those are total figures.

Mr. **Macnow**. I used the same NMFS figures.

Mr. **Breaux**. I suggest two things: We will check ours and you check yours.

The other point that I need to mention relates to access to foreign markets for our fish products.

I think your position basically is that the Japanese industry is working with the United States in trying to help open up markets in Japan for United States fish products.

Mr. **Macnow**. That is correct.

Mr. **Breaux**. The United States had a meeting with Japan in April. We sent a whole delegation over there to sit down and talk about removing some of the Japanese trade barriers impeding our fish exports. Some of the things that we requested in the area of an accelerated reduction of their heavy tariffs on fish was a reduction request from 10 percent to 6 percent, on herring roes, cod, pollock, some pollock roes and cod roes, from 10 percent to 5 percent on frozen squid, a request to go down from 15 to 7½ on other pollock roes, from 7½ to 5 percent on hard roes of salmon, from 7½ percent to 4 percent on other hard roes, a reduction from 10 percent to 6 percent on fresh and frozen crabs, from 15 percent to 7½ on canned crabs and suspension of the 15-percent duty on salted salmon to assist us in the very serious Bristol Bay salmon problem where we had a lack of freezer capacity.

We also asked for some help on import quotas. We got a consistent answer for each one of those. "No." On everything that I just set out, there was a negative response. How is that trying to help as far as opening up a market is concerned?

Mr. **Macnow**. I think you have got an incorrect evaluation on that, Congressman Breaux. I was there during that period. Insofar as the tariffs are concerned Japan has agreed to cut all its tariffs in half over a 5-year period.

There was a request by Mr. Frank to speed up this reduction and there were some additional reductions asked for. He went to the Japan Fisheries Ministry to ask for these reductions.

This is not under the jurisdiction of the Japan Fisheries Ministry. It comes out of the Ministry of International Trade and Industry.

Mr. **Breaux**. They talk to each other, don't they?

Mr. **Macnow**. Just about as much as Commerce and Interior and some of the others, but it is not their jurisdiction, and he did not apply to the Ministry of International Trade and Industry.

Mr. **Breaux**. You mean we just went to the wrong fellows?

Mr. **Macnow**. That is one of the problems. The other was that this schedule of tariffs and reductions was worked out among a number of countries at the last GATT negotiations and it was worked out after a long period of time, and now, all of a sudden, the United States comes back and says we want a unilateral reduction of these things, and they are talking to the wrong ministry to do this.

Mr. **Breaux**. It is hardly unilateral when you consider that it was tied to the allocations of our surplus fish.

Mr. **Macnow**. The U.S. representative in these international tariff negotiations which were held just a year ago had agreed on this level of reduction. Doesn't the Commerce Department talk to our trade export people who worked out these reductions? If they wanted more they should have indicated so at that point.

Mr. **Breaux**. Not only do they consult, they were part of the trade mission and the response that came back was not saying, "you are talking to the wrong people; you should talk to another department."

Mr. **Macnow**. They were told that the Ministry of Fisheries has nothing to do with this. This is a problem for the Ministry of International Trade and the Finance Ministry.

Mr. **Breaux**. And no further discussions?

Mr. **Macnow**. No; they said then—the Japanese then said that they will approach the Ministry of International Trade and Industry. That is an important part of it too.

Mr. **Breaux**. I don't want to monopolize the questions.

Mr. Forsythe?

Mr. **Forsythe**. Thank you, Mr. Chairman.

Thank you, Mr. Macnow. I would like to continue on this problem of trade barriers, particularly in the area of nontariff restrictions because I am not sure that tariffs are as much a problem as nontariff barriers.

You state that "Japanese TALFF allocations were reduced on the basis of groundless allegations completely unsupported by any evidence. The Japanese maintain no significant impediments against the import of U.S. fish product."

I would like to read to you from a recent GAO report which states:

> Despite marketing opportunities in Japan, tariff and nontariff trade barriers hamper U.S. marketing efforts there. Japan maintains a tariff between 5 and 15 percent, but nontariff restrictions such as import quotas, present an even more important barrier to export.
>
> In 1979, Japan's dollar volume import quota for ground fish, including pollock and others, was $20 million for 98 countries, including the U.S.

GAO does not seem to share your view that there is no evidence of Japanese trade barriers with significant effect on the United States access to Japanese markets—barriers which have the effect of impeding the development of the U.S. fishing industry.

Given the categorical statement which you have made in the past, not today, somebody is in error. We did some calculations on this and this $20 million limit on imports would work out to something like 90,000 metric tons of pollock.

Your 1979 catch of pollock in the FCZ was 779,000 metric tons. How do you figure we have got an open market?

Mr. **Macnow**. I would like to point out, Mr. Forsythe, that although that quota is—although 98 nations are eligible for that quota, only about 10 percent of that quota was ever used. There was about 90 percent of it available to be used by the United States and the Japanese Government said that when the United States uses that remaining balance then they will consider expanding it to accommodate more fish from the United States.

Even on this $20 million there were no American attempts to export pollack to take up any part of this quota. There was sufficient quota there so the Japanese could have taken a substantial amount of American pollock but no attempts were made to even sell pollock by the United States or to get within this quota.

Mr. **Forsythe**. Ninety percent of 90,000 tons, true, is 81,000 tons but it has been indicated to me that that is not enough volume to gear up a fishing effort to be economically feasible.

Mr. **Macnow**. The Ministry of Fisheries said that when the United States fills that quota then they will increase it to accommodate American exports, and the United States has not even entered anything under that quota yet.

Mr. **Forsythe**. We think that is, in effect, a substantial trade barrier.

In another area you state that the fees now being paid are already a burden on the international community. Would you agree that our tonnage fee of 50 cents to a dollar is an accurate statement and the international fees will range from $20 to $180?

Mr. **Macnow**. I agree, the tonnage fee is very reasonable compared to other tonnage fees but——

Mr. **Forsythe**. The United States also charges a value fee on fish taken of 3½ percent, which works out to about $1.86 to $30 per ton, whereas the international fees have a range of $10 to $2,000 a ton.

Mr. **Macnow**. There are highs and lows in every country's—if you look across the world, there are highs and lows in fishing fee structures but the average fishing fee throughout the world for foreign countries fishing within the 200-mile zone of foreign countries is below 5 percent. It ranges around 4 percent.

Mr. **Forsythe**. Admittedly, we do not have as much data but certainly in what we have shows that we are well within the range of fees that are charged by others. If our tonnage fee is only at a high of $1 compared to a low of $20 in the international surveys we have made, it certainly doesn't look to me that the fees we are talking about are all that wild.

Mr. **Macnow**. I would like to point out that a country like Canada, for example, has a tonnage fee and a time fee; that is, a country which fishes within Canadian waters will pay according to the tonnage of the vessel. This is a higher fee than the United States charges on a tonnage fee. Then it charges for the time that vessel is in the waters to make its catch, but it doesn't have the poundage fee that the United States does.

Mr. **Forsythe**. So whether you catch any fish or not, you are going to pay on a per hour or per day basis?

Mr. **Macnow**. That is right, and in many cases it works out to be less than what the United States is charging.

Mr. **Forsythe**. It could work out to horribly more too.

Mr. **Macnow**. It could if they didn't catch anything, right.

Mr. **Forsythe**. Mr. Chairman, this is the second bell. I am not finished here.

Mr. **Breaux**. My intent is to come back at 2.

Mr. de la Garza?

Mr. **de la Garza**. Thank you, Mr. Chairman. I only have two questions of the gentleman.

I am intrigued by the letter from Mr. Tominaga. No. 1 question: To what extent does he have the blessing or the sanction of the Government of Japan in relation to cooperating with our fishermen and extending our exports to Japan? Is that a fair question?

Mr. **Macnow**. Yes; it is. I think it is a mistake to approach the Government and ask them to buy fish because the Government doesn't have any budget to buy fish.

Mr. **de la Garza**. I am not talking about buying fish but as far as——

Mr. **Macnow**. I am just making a joke, a weak type. You have to deal, I think, on an industry-to-industry basis, not on a government-to-government basis.

Mr. **de la Garza**. But the Government intervenes industry-to-industry. Can't he deliver without Government intervening on an industry-to-industry agreement?

Mr. **Macnow**. Yes; he can.

Mr. **de la Garza**. And the second question is in his letter he expresses things they have been doing, and I see nothing as far as the gulf is concerned, nor the Southern Atlantic. Is there a specific reason for that logistic-wise, or type of fish, or——

Mr. **Macnow**. No, sir. Last year, or maybe 18 months ago I approached people in the gulf region and I approached them with an idea that since the shrimp boats go out and they catch 10 pounds of fish for every pound of shrimp that they catch and this 10 pounds of fish is chucked overboard for the most part and wasted, that we felt we could add additional income to a shrimp fisherman's income by providing a Japanese processing vessel to work in among the shrimp fleet and buy the fish from the shrimp fishermen that would otherwise be thrown overboard.

I discussed this with a number of people down in the gulf coast region and apparently there wasn't all that great interest for the Japanese to come in and help out in this way. We are now seeking to * * * because of the problems of the shrimp industry, when I was over in Japan I talked to a number of the Japanese trading companies about diverting their purchases of shrimp from Southeast Asia, where they are buying most of it now, to the Gulf States of the United States, helping to soak up some of these supplies of shrimp that are around and which are depressing the market.

We are still in discussion stage on that.

Mr. **de la Garza**. I appreciate that very much. I would like to continue outside the realm of this committee a discussion with you on that because there is a distinct possibility that it could be mutually beneficial to continue exploring that possibility.

Thank you, Mr. Chairman.

Mr. **Breaux**. Mr. Macnow, we are going to have to recess now. The committee will recess until 2 p.m. Mr. Forsythe has indicated he has some additional questions. Would you be able to come back at 2?

Mr. **Macnow**. Yes, I will.

Mr. **Breaux**. With that, the committee will be in recess until 2 p.m. when we will continue.

[Whereupon, at 12:13 p.m. the subcommittee recessed, to reconvene at 2 p.m. the same day.]

Mr. **Wyatt**. The committee will be in order.

Mr. Macnow, thank you for coming back this afternoon.

Mr. Forsythe?

Mr. Forsythe. Thank you, Mr. Chairman.

One of the problems that you pointed to so far as U.S. access to markets was the problem, of low product, quality and apparently many times the sale would be all set and the quality of the product wouldn't measure up.

I wonder if you could be specific on what our problems are in that area?

Mr. Macnow. The problem, I think, more particularly is the fact that fishermen have difficulty in getting the product back to shore stations fast enough to be frozen quickly so that the quality is retained. It has been suggested that Americans build trawler-processor vessels so that for fish which deteriorate quickly, like pollock and hake, the product could be frozen within 3 hours of catch, and this would retain the quality. This would be an improvement. This would help.

On the east coast, there have been great problems with the quality of butterfish, particularly. The butterfish is landed and by the time it's landed and by the time it gets to processing plants, sometimes it's shipped all the way from Long Island up to Maine to be processed, to be frozen. And the quality has been very erratic. Some of the quality of the product which was obtained was found to be good. Others in the same shipment, the fish have been found crushed, their stomachs distended, and either overfrozen, or deteriation was present in the flesh.

There is quite a bit of a quality problem. Foreign markets expect—they're greater fish eaters—and they expect a very fresh type of fish, even when it's frozen.

Mr. Forsythe. Essentially, then, it's delayed processing that doesn't permit it to be top quality for consumer use?

Mr. Macnow. That's right. And Joint Ventures have to some extent solved part of this problem by having fishermen catch the fish and sell it to the processing vessel.

Mr. Forsythe. On page 8 of your first statement that you submitted to us, you complain about Japanese allocation. Last year Japanese took 72 percent of all foreign harvested fish by value and 68 percent by volume. This is about $324 million worth of fish, and your fees were only about $12 million. The next largest fishing operation in our zone was the Soviets,, who took 20 percent by volume 18 by value. By value, the Japanese take was 17 percent of the total in 1976 in the 3 to 200 miles zone, and 17 percent in 1979 in that same zone, and yet foreign fishing dropped from 36 to 28 percent by value in the zone. The entire U.S. growth of harvest which was about 8 percent over 3 years, came at no expense to Japan instead it came from other countries. So, just what is your complaint? Coupled with your attitude toward market access by U.S. products, your allocations are probably too high. Shouldn't we reward Spain and West Germany and other countries that are really cooperating on trade?

Mr. Macnow. I really don't know how Spain and West Germany and other countries have cooperated. I do know that in 1978, Japan bought by far the bulk of American exports, 62 percent. In 1979, Japan bought 57 percent of all U.S. fish exported. Other countries don't come close to this; especially those within the FCZ. Poland, for example, imports no American fish.

Japan has been doing more than any other country to import American caught fish and to develop markets for American caught fish. As far as I know, Spain's imports of squid, if any, have been very low. West Germany's imports have been mostly salmon, I believe, and still doesn't compare with Japan's imports; and yet, these other countries are given preferences in allocations. Their share of the allocations keep increasing. And Japan, despite the efforts Japan is making to increase the amount of fish which it buys from the United States, keeps getting its allocations cut.

Mr. **Forsythe**. You note the increase in exports to Japan. However, NMFS reports the January-February exports to Japan fell from 20.6 million in 1979 to 15.9 million in 1980. Salmon was down 40 percent, shrimp 60 percent, fish roes 8, and other fish 52 percent. It appears that only crab increased from 2.3 to 5.4.

Is this how you provide market access.

Mr. **MacNow**. No, as you may know, in the salmon market Japan overbought quite a lot last year, and the Japan importers really took a bath on it. They bought, I think, at $1.84 per pound, and they're forced to sell it at $1.60 per pound because there's too much salmon in the markets now. They lost $130 million from the salmon trade alone up to this point.

Their purchases of other fish which have been similar. For example, sablefish. They purchased a great deal of sablefish, more than the market could sustain, and they had to cut back on it a little bit.

They're still back in the market for salmon. But American fishermen, however, have not agreed to reduce the price to the level at which the market will buy it.

Mr. **Forsythe**. Last question, Mr. MacNow, the central thrust of your testimony seems to be that fish, more fish can be made available for foreign harvest without biologically damaging the stock.

Are you therefore stating the optimum yield for each fishery should be approximately equal to the maximum sustainable yield for that fishery?

Mr. **MacNow**. That's right. As I said previously before we broke for lunch, many devices have been used to reduce the OY's to the point where there is very little surplus available for foreign fishermen. The people from the National Fisheries Institute suggested that OY's can be lowered for the purpose of producing a bigger fish, or increasing the volume of fish for American harvest.

Well, this has been done. This is common practice by the Regional Management Councils to reduce OY's to a point well below the maximum sustainable yield, using as an excuse the need to get a bigger fish or the need to create greater aggregates of fish.

However, maximum sustainable yield is the point at which you get the greatest yields from a fishery, and many of these deviations from maximum sustainable yield through lower OY's have been, in the opinion of my Japanese clients, very unjustified.

Mr. **Forsythe**. Of course, that would actually take an amendment in law. As you know, the law does provide that OY is the standard rather then maximum sustainable yield.

Mr. MACNOW. That's correct. We're not complaining about the OY too much, except when it's reduced well below the maximum sustainable yield for reasons which are not really biological, and are not pertinent to the economics of the industry. In the butterfish plans, for example, there is an attempt to reduce the OY by 5,000 metric tons for the purpose of creating a shortage of this fish overseas, and thereby—or so the plan managers think—increase the price of the fish; but I don't think that this is a type of device which will work, and it's my personal opinion that a reduction for this purpose is unjustified, that it's a measure that has not been shown to work in the past, and will probably not work in the future.

Mr. FORSYTHE. Well, my silence does not indicate agreement. Thank you very much for your answers.

Thank you, Mr. Chairman.

Mr. WYATT. Thank you, Mr. Forsythe. I think that concludes the questions.

We would now call the Florida-Louisiana panel.

Mr. MACNOW. Thank you. Thank you for allowing me to testify before you.

Mr. WYATT. Certainly. We appreciate your being here.

STATEMENTS OF WILLIAM (BILL) UTZ, NATIONAL SHRIMP CONGRESS; CHARLES LYLES, GULF STATES MARINE FISHERIES COMMISSION; MICHAEL HAGAN, M. F. HAGAN SEAFOOD PACKERS; THOMAS J. COLLINS, JR., PRESIDENT OF DESCO MARINE; AND EDWARD WOLFE, NATIONAL SHRIMP CONGRESS, INC.

Mr. WYATT. Mr. Hagan, I believe you're our first witness, or Mr. Utz, do you want to go first today?

Mr. UTZ. Mr. Chairman, if you please, I'll try to act as chairman for the panel here. I think we would like to lead off with Mr. Charles Lyles.

Mr. WYATT. At your convenience and discretion, then, Mr. Utz, please proceed.

Mr. UTZ. Thank you.

Mr. LYLES. Mr. Chairman, members of the committee, ladies and gentlemen, thank you for the opportunity to say a few words in support of H.R. 3079, a bill designed to promote the development of U.S. fisheries

My name is Charles H. Lyles. I'm here to represent the Louisiana Shrimp Association. My experience includes research, teaching, enforcement, and administration of some rather extensive fishery programs at a State, national, and international level.

I served the Federal Service for 32 years, retiring as Chief of the Division of Statistics.

I was director of the Mississippi Marine Conservation Commission for approximately 3 years, leaving that position to accept a position as director of the Gulf States Marine Fisheries Commission

A previously prepared statement has been submitted, and I wish to have that entered into the record. I will summarize the main points in the statement as follows, but before I do that, I would like to deal just a little with some statistics on the imports of shrimp. I got the impression yesterday that the committee had the opinion that imports of shrimp were going down. Quite the contrary is true. Imports for 1967 amounted to 267 million pounds which is a little over 3 million pounds short of the all-time record, which was established in 1976.

At the same time that was happening, 16-20 count shrimp, for example, was selling for $5.60 a pound. It's now $3.80. Fuel was about 57 cents as compared with about 90 cents now. I know these are averages, but that's about the situation.

The imports, thus far this year, are running ahead of last year for the first 2 months. That's all the data that we have today. But I don't think there's any indication that imports are slacking off.

Now, back to my summarization.

We support H.R. 7039 because we have some very serious problems in our fishing industry that require immediate solution. This bill will go a long way toward solving them. Many of the vessel owners face a loss of their vessels if we do not assist them and soon. We therefore suggest that your fisheries loan fund as found in section 212 be expanded to provide operating loans for all vessel owners in financial distress. These vessel owners need financing to cover the difference between current operating costs and production revenues.

Many of our vessel owners can operate for a few more months, but unless relief is obtained, they will surely be bankrupt.

In order to reduce the possibility of this crisis occurring again, we suggest that research be undertaken with the objective of improving the relationship between the catch and the use of fuel.

Furthermore, we support research which will result in the use of discards from the shrimp industry. Approximately 2 million pounds of fish, much of which contains species whose flesh is highly desirable, but because of the size is not readily marketable, is discarded annually.

Research in this area should be directed toward removing this flesh from the carcass, reflavoring where necessary, and so texturizing the flesh that it has the flakiness of the best imports at the present time. While work is already underway in this, we believe it should be accelerated. This combined with gear research designed to improve the catch will result in an improved economic condition in the fishery, since the vessel owners will then be able to sell that which they now discard.

This research should be financed with S-K funds, and should be done outside National Marine Fisheries Service, since that agency no longer has fishery expertise capability or interest to carry to fruition a program of this magnitude.

At this point I would also like to raise two additional issues.

First, we believe it is essential that we have a 5-percent duty on all fishery products imported into the United States. Moneys derived therefrom to be used for the benefit of U.S fisheries and the research which I have just recommended to be financed by S-K funds would be facilitated by these duties.

Obviously, Mr. Chairman, I support section 101 of your bill, amending the S-K program, and especially applaud the provisions requiring that 75 percent of S-K money be dedicated to industry initiated fishery development projects, and that these moneys be restricted to enterprises which are at least 75 percent U.S. owned.

In addition, Mr. Chairman, we would like to propose an idea not previously voiced at these hearings. We favor the creation of a fisherman's bank modeled after the Production Credit Administration Bank of farmer cooperatives. Only persons who receive 75 percent or more of their income from fisheries would be allowed to serve as members, or on the board of directors.

Thank you for your attention, gentlemen. I shall be happy to try and answer any questions.

Mr. Utz. Mr. Chairman, our next witness will be Thomas Collins.

Mr. Collins. Gentlemen, and members of the Fisheries, Wildlife Conservation and the Environment Subcommittee, I am Tom Collins, president of Desco Marine.

Desco Marine is the world's largest builder of shrimp and fishing trawlers. We are located in San Augustine, Fla. Our principal market is producing shrimp trawlers for customers from North Carolina to Texas. We also produce vessels for the Northeastern United States, and the four coastal States on the west coast. Our foreign business is worldwide. We deliver to Central and South America, Africa, New Zealand, and we recently delivered three vessels to mainland China.

In all, we produced 171 boats in 1979, from 62 to 75 feet in length.

There are many problems facing the shrimp industry today. Rising fuel prices, excessively high interest rates, inflation affecting other operational costs, and unreasonable attitude from the Mexican Government in negotiating to allow American fishermen to continue fishing in Mexican waters, the list goes on and on.

No bill can solve the many problems, but H.R. 7039 is a wonderful start. The basic concepts of the bill are good because it offers protection of the most basic element required in fishing, the boat. It provides for the expanded use of the S-K funds which are there to spend, but they seem to be tied up in the bureaucratic jungle. It offers an opportunity to modernize and expand the shoreside facilities which are sorely needed to match the fishing capabilities of the boats and fishermen. It offers a logical approach to expansion of the industry with the phasing out of foreign fishermen, trade barriers, observers, et cetera.

This bill should be considered a start in the right direction. In the future, something must be done about the price of fuel. The list of countries that subsidize their fisheries in one form or another is lengthy. Fuel subsidies are very close to home. Mexico has a 17-cent-per-gallon cost, Venezuela has cheap fuel, Canada is subsidizing, Japan is subsidizing.

Fuel has become the single most important consideration in fishing. In December 1979, we, Desco Marine, had come off a record year of deliveries. We delivered 171 boats. We had close to 700 employees. San Augustine is in St. Johns County in Florida which has a population of approximately 40,000 people. Boat building directly employed approximately 1,200 people, and with a normal family spinoff of just 3 to 1, affected a minimum of 10 percent of the population, and economically affected 20 to 25 percent of the population of that county.

Four short months later, Desco Marine is building boats at a rate of 70 boats per year, has laid off more than one-half of its employees, and has drastically affected the economy of the Nation's oldest city.

Desco Marine is not alone The boat builders throughout the Southeast and the rest of the United States are in deep trouble at this time, because the fisherman is the foundation of our business.

St. Augustine enjoys a worldwide reputation as the fishing boat construction capital. Unless something is done immediately to aid the U.S fisherman, St. Augustine may not continue to enjoy that reputation.

Thank you.

Mr. UTZ. Next we ask from a different perspective, Michael Hagan.

Mr. HAGAN. Mr. Chairman, other members, my name is Mike Hagan. I'm a member of a family that owns M. F. Hagan Seafood Packers. I'm a second generation member. At present my two brothers and myself are fishermen. My son is also a fisherman. My father has over 50 years experience in the fishing industry, and I hope that my son may continue to enjoy the fishing industry for another 50 years.

We purchased our first shrimp boat 40 years ago, and up to the present have operated a viable industry.

I come here today in support of H.R. 7039, taking into consideration the changes and suggestions proposed by the Texas delegation yesterday. In general, the crisis in the industry is one of a rapid rising fuel cost, and a depressed market for our product. In my particular case, these are combined with the fact that we were forced out of the foreign fishing grounds. In 1979, the majority of my boats fished 100 percent in Mexican waters with the total catch being returned to the U.S. market. When those grounds were closed to us, we were forced to fish in U.S. waters only. The result, our production catch per boat was reduced at which time the fuel factor put me in a negative cash flow position.

In addition, the domestic industry is competing on the world market with many foreign countries which are financially assisted in their fleets. For example, the Mexico 17 cent fuel, in Canada, 40 cent fuel. Other countries have similar benefits to assist their industries. The problem is that these products are then imported into the U.S. at a lower price than domestically produced seafood. This importing is done free of any tariff or quota.

In the fishing industry, and particularly in the shrimping sector, we are forced to use fuel on a nondiscretionary basis in order to harvest our product from the sea. In light of this, and in the fact that fuel cost cannot be passed on to the consumer as in the case of many other industries, our doom seems imminent. The only seemingly viable alternative if Government help is not available will be to look toward foreign nations.

For example, we have a standing offer of joint ventures with Mexico. What does this mean? The business relationship is 51 percent Mexican, 49 percent American, and in 5 years the boats are theirs.

This also brings to mind, we must employ their people with our people going jobless. There would be an increase in trade deficit.

This opens our natural resources to exploitation by foreign vessels. Mexico would control our market.

The tuna people have already begun joint ventures such as this. Ralson-Purina, owner of Van Camp Seafood, recently sent 10 boats, representing a $68 million deal to Mexico.

All reflection of this type leads to the conclusion that it is indeed unfortunate when in a so-called free enterprise system, we find it necessary as businessmen to come before you seeking help so that we can remain a viable part of the economy. However, we have no choice. But I would like to point out we recently held a mass industry-Government meeting with leading representatives of the administration and its top bureaucrats to explain our situation and some solutions.

I will not bore you with the details, but their attitudes and responses reminded me of what Ben Franklin once said, and I quote, "It is wonderful how preposterously the affairs of the world are managed. We assemble parliaments and councils to have the benefit of collective wisdom, but we necessarily have at the same time the inconvenience of their collective passions, prejudices, and private interests. For regulating commerce, an assembly of great men is the greatest fool on earth."

The administration reflected this to a "T." Gentlemen, the administration offered nothing. You are the hope of this industry. Something must be done immediately. We need loans. Interest rates on these loans should reflect the administrative cost. The industry census is simply stated, the U.S. fishing industry must secure immediate infusion of capital until longrange remedial programs can be devised and implemented, which will bring the industry back to a profitmaking status.

Thank you, gentlemen.

STATEMENT OF M. F. HAGAN, M. F. HAGAN SEAFOOD PACKER

BREAUX FISHERIES DEVELOPMENT BILL

Fisheries Loan Fund—Section 212:

Assistance should be available for all boat owners in danger of defaulting on their mortgage.

No priority should be given to Title XI Loans. Assistance should be equally available to all individuals.

New Fees on Foreign Fishermen—Section 302: No Comment.

Amendment of the Saltonstall—Kennedy Program—Section 101:

We support the 75 percent U.S. Ownership.

Use funds strictly for industry directed projects in the industry as it presently stands.

Fuel Efficiency and Fish Inspection Quality Standards—Section 101: No comment.

Capital Construction Fund (CCF)—Section 201: Fully Support.

Title XI Loan Guarantee Program—Section 212:

Title XI Loans are fine if they are restructured so that:

(1) The low down payment (12 percent) approach is abandoned. This is one cause of over-building in the U.S. fleet.

(2) Tax benefits from vessel ownership under this program can only apply to income directly derived from fishing source income. Outside income (i.e. income from anything other than activities directly related to the fishing industry) could not benefit tax wise.

Phase Out of Foreign Fishing—Section 301: Had Mexico done this to us we would have found it more palatable because a door would still be open at the end of the phase out.

Observer Program—Section 311: No Comment.

Trade Barriers—Section 301: No Comment.

Regional Fisheries Attacks—Section 102: No Comment.

To summarize, there are at least two major causes of the crisis in the fishing industry today, neither of which is controllable by the industry people. One is the rapidly rising fuel costs and the other is the depressed market for our products.

The domestic industry is competing on the world market with many underdeveloped nations whose governments subsidize their fishing fleets. For example, the fuel price in Mexico is about 17¢ per gallon and about 40¢ per gallon in Canada. Other countries have similar benefits to assist their industries. The problem is that these products are then imported into the U.S. at a lower price than domestically produced seafood. This importing is done free of any tariff or quota.

In the fishing industry, and particularly in the shrimping area we are forced to use fuel on a non-discretionary basis in order to harvest our product from the sea. In light of this, and the fact that fuel costs cannot be passed on as in the case of many other industries, our doom seems inevitable and imminent! And this conclusion applies to the fishing industry as a whole.

To offset this from happening so that long term solutions can be persued, something must be done immediately. At the very minimum industry people must have relief via low interest loans where the interest rates of the loans reflect their administrative costs. At the Joint Effort on Fuel, U.S. Fishing Industry meeting held in Washington on March 17, 1980, a motion made by Marion Duzich, Duzich Trawlers, expressed this consensus feeling of industry people as follows—"The U.S. Fishing industry must secure immediate infusion of capitol until long range remedial programs can be devised and implemented which will bring the industry back to a profit making status."

STATEMENT OF CHARLES H. LYLES, EXECUTIVE SECRETARY, LOUISIANA SHRIMP ASSOCIATION

Mr. Chairman, members of the Committee, ladies and gentlemen,

Thank you for the opportunity to comment on H.R. 7039, a bill designed to aid the U.S. fishing industry. The passage of Public Law 94-265 provided certain advantages for the U.S. fishing industry. We are already experiencing some of the benefits of this important legislation. While this law provided some advantages it fell short of establishing U.S. policy in fully developing these resources. We believe H.R. 7039 holds considerable potential for fulfilling this need.

A development bill should insure that we have a viable fishing industry, capable of producing a quality catch that can be processed into a wholesome product acceptable to U.S. consumers.

Historically the U.S. consumer has had a taste for the delicacies from the sea. Growth in U.S. fisheries has principally occurred in such items as crabs, shrimp, clams, lobsters, etc. and in the convenience items. Per capita consumption has shown a remarkable increase in such items as canned tuna, fillets, steaks, and sticks and portions. To supply this growing demand we import more than 50 percent of our shrimp, 70 percent of our fillets and steaks, and 99 percent of our blocks from which sticks and portions are made. We import 60 percent of the tuna used to produce a pack worth more than $1 billion. We are indeed the world's best fish market, and yet with 20 percent of the world's fishery resources off our shores we find it necessary to pay foreign nations to supply our needs. Just as we must become self-sufficient in fuel so we must become self-sufficient in fish. We cannot always endure the $2.7 billion trade deficit we experienced in 1979.

The fishing industry of the Gulf of Mexico is among the most important of this nation. In 1979 we produced 2.1 billion pounds of fish and shellfish valued at $530 million. Volume wise it is the most important section in the nation and in value is exceeded only by a combination of the entire Pacific Coast including Alaska. There are approximately 18,000 people employed in wholesaling and processing and these are supplied by approximately 27,000 fishermen using 5,000 vessels and 10,000 motor boats. The Gulf fishing industry normally supports an estimated 50,000 jobs in supply and shipbuilding industries. Since fishing is one of only four ways that wealth can be produced, the industry has had an enormous impact on the economy of many of our coastal communities. Lately, however, because of skyrocketing fuel cost and declining shrimp and fish meal prices our industry finds itself in serious trouble. From 75 to 90 percent of the fleet is presently tied up because of high fuel prices and reduced catches by each vessel. In short we face an economic disaster. It is for that reason that I appear today in an effort to persuade this Committee to augment management with development of these resources for U.S. fishing industry. In recent years there has been an accelerated growth in the number of shrimp vessels in the Gulf. This was caused by rising shrimp prices, a record harvest in 1977, and near record in 1978. Then when the catch was reduced to a more normal rate marginal operators had difficulty making a go of it. This coupled with accelerated fuel costs, and in many instances unavailability of it, forced many of the vessels to remain in port. In 1980 we obviously face a disaster because unusually heavy spring floods killed many of the post larval shrimp entering the bays. Catches will be greatly reduced in 1980 while costs continue to rise. In an attempt to mitigate these conditions somewhat I am here to support H.R. 7039.

There are three main causes for the present condition:

(1) The large number of vessels in the fishery has reduced each vessel's catch.

(2) The high cost of fuel—as related to the vessel's total catch.

(3) The increasing quantity of imports has held down prices, thus worsening economic conditions in the industry.

We therefore recommend (1) that gear research be undertaken which look toward greater fuel efficiency, thus improving the relationship of catch to fuel consumed; (2) that research in procuct development be undertaken which will utilize some of the incidental catch of fish now discarded, to prepare products such as fish portions, etc., in much the same manner as some of our meat and poultry products are prepared.

In order to provide funding for this proposal, in addition to funds obtained from the Saltonstall-Kennedy source, we recommend a five cent per pound tax on all fishery products entering this country. This small tax would in no way materially change the price to the consumer in this country. In order to deal with the immediate crisis there must be loans made available at very low interest rates to help fishermen and vessel owners over the immediate crisis.

We see no problem in phasing out foreign fishing in accordance with the provisions of this bill.

I shall be happy to try and answer any questions.

Statement of Mr. Tom Collins, Desco Marine, St. Augustine, Fla.

Gentlemen and Members of the Fisheries, Wildlife Conservation and the Environment Subcommittee, I am Tom Collins, President of Desco Marine. Desco Marine is the world's largest builder of shrimp and fishing trawlers. We are located in St. Augustine, Florida. Our principal market is producing shrimp trawlers for customers from North Carolina to Texas. We also produce vessels for the Northeastern U.S. and the four coastal states on the West Coast. Our foreign business is worldwide. We deliver to Central and South America, Africa, New Zealand, and we recently delivered three vessels to mainland China. In all, we produced 171 boats in 1979, from 62 feet to 75 feet in length.

There are many problems facing the shrimp industry today. Rising fuel prices, excessively high interest rates, inflation affecting other operational costs, and unreasonable attitudes from the Mexican government in the negotiating to allow American fishermen to continue fishing in Mexican waters; the list goes on and on. No bill can solve the many problems, but H.R. 7039 is a wonderful start. The basic concepts of the bill are good because it offers protection to the most basic element required in fishing, the boat. It provides for expanded use of the S/K funds, which are there to spend, but they seem to be tied up in the bureaucratic jungle. It offers an opportunity to modernize and expand the shoreside facilities, which are sorely needed to match the fishing capabilities of the boats and fishermen. It offers a logical approach to expansion of the industry with the phasing out of foreign fishermen, trade barriers, observers, etc.

This bill should be considered a start in the right direction. In the future, something must be done about the price of fuel. The list of countries that subsidize their fisheries in one form or another is lengthy. Fuel subsidies are very close to home. Mexico has a 17 cents per gallon cost, Venezuela has cheap fuel, Canada is subsidized. Fuel has become the single most important consideration in fishing.

In December of 1979, we had come off a record year of deliveries. We delivered 171 boats. We had close to 700 employees. St. Augustine is in St. John's County in Florida, which has a population of approximately 40,000 people. Boat building directly employed approximately 1200 people and with a normal family spinoff of just three to one, affected a minimun of 10 percent of the population, and economically affected 20–25 percent of the population.

Four short months later, Desco Marine is building boats at a rate of 70 boats per year, has laid off approximately one half of its employees, and has drastically affected the economy of the nation's oldest city.

Desco Marine is not alone. The boat builders throughout the Southeast and the rest of the U.S. are in deep trouble at this time because our business hinges on the fortunes of the fishermen. St. Augustine enjoys a nationwide reputation as the nation's oldest city. It factually enjoys a worldwide reputation as the fishing boat construction capital. Unless something is done to aid the U.S. fishermen, it may not enjoy either reputation. This bill sponsored by Congressman Breaux is certainly a step in the right direction and hopefully will be followed by other legislation that is drafted by a joint effort of the lawmakers and the fishing industry such that American fishermen can enjoy the optimum benefits of the fishing grounds of the United States.

Mr. UTZ. Mr. Chairman, members of the committee, I'm Bill Utz, executive director of the National Shrimp Congress. The National Shrimp Congress, as you know, is the national association representing shrimp producers from the Carolinas along the gulf to Texas.

Including in its membership, the American Shrimp Boat Association, Florida Shrimp Association, Louisiana Shrimp Association, and the Texas Shrimp Association.

We would like to commend Chairman Breaux, Mr. Forsythe, and all the other members of the subcommittee and their staff for their unparalleled support and concern over the plight of the gulf shrimp industry, and the many segments of the U.S. fishing industry that are experiencing similar difficulties. H.R. 7039 addresses many of the concerns of the U.S. fishing industry, and moves in a positive direction toward meeting many of the industries needs. We strongly support this legislation.

You have heard testimony over the last few days from shrimp panels that we have convened here that give you a perspective throughout the gulf, and all of them have attempted to emphasize and point out the specific needs of this industry.

I will not attempt to go through all of our testimony, but prefer to have it submitted for the record, and merely point out the highlights of the significant parts of the testimony that have been presented in the last 2 days, with particular emphasis on those things we need immediately.

Primarily and foremost, we need a loan program now. We need a loan program similar to what you have in the legislation, but widely expanded. We need it to cover all fishing interests, as far as the boatowner is concerned. We need it also to cover beyond his principal and interest, and to take into account his cost of operations, and the difference between what it is costing him to operate and what he is receiving in return on his production.

To give you some indication as to the amount of problems that we're having in that area, NMFS currently has $139 million in boat mortgages. Over 50 percent of these mortgages apply to shrimp vessels. A good number of those—in fact, it's very difficult to get a fix, but probably most of those are in extreme difficulty, and that is merely the tip of the iceberg.

It is estimated that 10 times that many boat mortgages are held in conventional financing arrangements, and those financing arrangements are probably in a more serious situation than those that have the Government guarantees.

We're particularly concerned with the fact that we're able to—that we need to receive these loans with reasonable interest rates. We've heard from a number of sources that these interest rates are available, that loan programs have been made available to other countries, particular countries that are competitors of ours. We've given you examples as to how they have been subsidized as far as their fuel is concerned. We've also mentioned the fact that there are subsidies as far as financing and loan packages. There has been testimony that has indicated that some countries that we have cited do not in fact give subsidies to their fishing industry. We would primarily like to address some of this testimony, and point out that recent information we have received from the State Department indicates clearly that low interest rate loans are made to some of our major competitors.

Mr. **Wolfe**. Mr. Chairman, members of the subcommittee, I just happen to have in front of me a Department of State unclassified document from our American Embassy in Japan, which reads in part as follows:

> Effective January 1979, the Government of Japan has implemented direct fuel oil loan program to fishing industry. Amount of subsidy (loan) in 1979 was 30 billion yen, or $136 million, at interest rates of 4 percent to 5.6 percent per annum, depending on the fisheries, with repayment period within 3 years, with 1-year grace period. Amount of subsidy (loan) for 1980 is 50 billion yen, which I believe computes to approximately $215 million.

While we're on the subject of loans, if I may I would like to respond to a question that Mr. Forsythe asked this morning that I believe needs following up on.

Will the loan program solve the gap in the present fuel differential? We believe unequivocally not. It will not solve the problem, but it will assist us in a transition period. Transition period from our present economic crisis, to a period of new fisheries, to a period of alternative fisheries; the swordfish, the tuna fish. We've heard our gulf panel testify on the different fisheries that may be available in the future.

It will also help us study and develop methods for more energy-efficient vessels. We think we need this—we know that we need these low-interest loans to get us through this economic crunch we're experiencing now during what we consider a transition period.

As Congressman Eckhardt said this morning, one major problem has been the impact of the price of fuel over a short period of time. A transition period is needed. As Mr. Utz will direct his comments to in just a minute, and as our gulf panel did yesterday, we think that the fisheries loan fund would go a long way toward helping us during this transition period with a minimum level of pain.

Mr. **Utz**. As we've indicated, we are confronted now with a multitude of problems that have been heaped on us at one time. In 1979, our activities were terminated in the Mexican zone. It immediately put those people at the far tip of Texas with a heavy activity of shrimp vessels in the northern part of that section of the gulf. It essentially cut their fishing grounds in half. It took the people that were operating in Florida that traditionally had spent, if not all of their time, a primary part of their fishing time in Mexican waters, forced them back into Florida waters, and in many cases, forced them to also traverse the gulf, and end up in Texas, and along the northern part of the gulf coast.

All of these things have come about at the same time we've been confronted with the factor of extremely high interest rates, and exceptionally high fuel costs.

The industry is attempting to adjust. We know that adjustment is the way of the future, and we're confronting that particular challenge at this time. But time is essential to accomplish these things, and time is something you don't have if you don't have adequate financing, and financing at reasonable rates currently is not available to the industry. That is why this particular loan program now is so essential. We have to keep the industry on balance, and active if we're to confront the challenges and overcome them.

In addition to that particular part of the bill which we're interested in, we recognize that this is not the appropriate forum, not the appropriate jurisdictional area for a duty, but we do believe it is the appropriate forum at this time to at least raise the question, and to pose what we believe is a primary incentive and assistance to this industry. We feel that at this time we need a 5 percent across-the-board duty placed—an ad valorem duty placed on all seafood imported into the United States. These revenues should be directed to the benefit of the fishing industry, and the duties on these products accumulated over the years could assist us in accomplishing many of the things that we're undertaking to do, but furthermore, provide us with the time and adequate support for the period of time it will be necessary to make this transition.

In examining the question of these duties, we feel that a 5-percent duty is not only reasonable, but is consistent with approximately the same level of duties that have been placed on agricultural products imported into this country over the years.

Those revenues generated therefrom have been exceedingly beneficial to the agricultural industry in many of its development areas, and also in supporting it in time of crisis.

Further, we do not believe that a duty at that particular level would have any impact on the consumer. We've discussed the situation with a number of processors. They've indicated to us that what we have believed for a number of years is in fact true, that the differential between what it is costing foreign subsidized competitors to produce their product and what it cost them to produce that product, and what they can sell it for on our market at our market rates, is sufficiently large that they can absorb this 5 percent duty without ever reflecting it in the price of the product to the U.S. consumer.

In closing, Mr. Chairman, we would like to thank the committee, committee members and the staff, for the attention that you have afforded this industry; for the time, the deliberation and the effort which was necessary to bring this bill together. You have recognized many factors which have been gnawing at the souls of fishermen for many years. You've recognized the fact that approximately 60 percent of all seafood consumed in the United States is imported. You've recognized the fact that imported seafood totals $3.8 billion annually. You've also recognized the fact that the United States only exports seafood in the amount of $1 billion annually.

Additionally, you have acknowledged that approximately 1.4 million pounds of this product could have been caught and may have been caught in U.S. waters, processed abroad, and shipped back to our markets. Further, that substantial numbers of countries exporting products to the United States have their fishing industry subsidized. And further, virtually every country to which we ship seafood has substantial import duties.

I would like to point out that our neighbor to the south, Mexico, provides an excellent example of these facts. Mexico is the largest exporter of shrimp to the United States, and brought into this country approximately $295 million of shrimp in 1979. Mexican fishermen pay 17 cents a gallon for diesel fuel for their shrimp vessels. United States shrimp fishermen pay 90 to 95 cents per gallon for the diesel fuel for our vessels.

Mexico has an import duty of 25 percent ad valorem on shrimp. The United States has an import duty of zero on shrimp. Mexico has forced all U.S. shrimp vessels out of Mexican shrimp areas. Although Mexican scientists agree with U.S. scientists that a surplus of shrimp exists in certain areas of Mexican waters, Mexican politicians refuse to acknowledge these facts. I hope your congressional colleagues will not refuse to acknowledge the many facts which you and your fellow committee members are presenting to them. I hope they can recognize the importance, the merits, the necessity, for this legislation, and will join with you and the sponsors of this legislation in moving it to a speedy enactment. You have our support.

We thank you.

[The following was submitted:]

STATEMENT OF WILLIAM NELSON UTZ, EXECUTIVE DIRECTOR, NATIONAL SHRIMP CONGRESS

Mr. Chairman and members of the Subcommittee, I am William Nelson Utz, Executive Director of the National Shrimp Congress (NSC). The NSC, as you know, is a national association representing shrimp producers from the Carolinas along the coast to Texas, including in its membership the American Shrimpboat Association, Florida Shrimp Association, Louisiana Shrimp Association and the Texas Shrimp Association.

The NSC wants to comment Chairman Breaux, Mr. Forsythe, all Members of the Subcommittee and the staff for their unparalleled support and concern over the plight of the Gulf Shrimp industry and the many segments of the U.S. fishing industry that are experiencing similar difficulties. H.R. 7039 addresses many of the concerns of the U.S. fishing industry and moves in a positive direction towards meeting many of industry's needs. The NSC supports H.R. 7039.

There are many provisions of this legislation which we wholeheartedly endorse and there are others which we would like to see expanded. As you recognized in your opening remarks upon introduction of H.R. 7039, one of the critically important issues which must be resolved is: "immediate, substantial, and realistic financial assistance is needed to permit the survival of valuable sectors of our fishing industry." As you are well aware, estimates place over 75 percent of our Gulf shrimp fishing vessels at the dock, unable to sustain their operating costs under current economic conditions. In fact, the Gulf shrimp industry is faced with negative economic conditions of such magnitude that estimates indicate approximately 25 percent of our Gulf fleet is facing default on their vessel mortgages.

Under the Title XI Vessel Obligations Guarantee programs, the federal government has guaranteed over $139 million in vessel mortgages—approximately $70 million is for shrimp vessels. This, though, is merely the tip of the iceberg. A total vessel mortgage figure from private lending institutions is not available. Estimates, however, by those who deal regularly with boat financing throughout the nation indicate there are 10 times, or more, conventionally financed vessels than those financed by government loans. It is further estimated, a greater percentage of those conventionally financed vessels are facing default.

Therefore, it is the NSC's position and request to the Subcomittee that Section 212, Fisheries Loan Fund, be extended to all fishing vessel owners, not merely those mortgages having Title XI guarantees. Further, we request the loan criteria be based upon cost of operations differential, i.e., the short fall between the cost of operation of the vessels and revenue derived from production. We believe this to be a more equitable and realistic basis for lending money to the vessel owners. A cost of operations approah is cosistent with long standing government programs afforded agricultural producers and recently reaffirmed by both Congress and the Executive through the extension of the Economic Emergency Loan Program (S-2269) which was signed into law on March 30, 1980.

As you are aware, the recent Economic Emergency Loan Program legislation provided for expansion of the original program by 50 percent (from $4 billion to $6 billion), and extended the program until September 30, 1981. The program grants the authority to the Secretary of Agriculture to make insured or guaranteed economic emergency loans to farmers and ranchers who are otherwise unable to obtain sufficient credit to finance their agricultural operations due to economic stress.

In many respects, Mr. Chairman, the fishing industry is not unlike the farming industry. The cost of operations has escalated rapidly, primarily due to the extreme rise in interest rates and the cost of diesel fuel. I need not elaborate on either except to point out that interest rates have doubled in the last few months and diesel fuel has increased from less than $.10 per gallon in 1973 to $.95 per gallon in 1980—an 850% increase. Additionally, we are experiencing a soft seafood market where prices have been steadily dropping over the last months. We also recognize there are those who would question whether either the farmers or the fishermen should have the type of loan program we are requesting. We would like to point out, however, this is a loan program, not a giveaway; a loan to an industry that has historically been the premier dollar producer in the fishing industry and a leader in seafood production throughout the world; an industry which has faced all forms of crises and overcome them all. We are today, however, faced with a multitude of crises which have occurred simultaneously with the accumulated effect of placing disaster on our doorstep. We view the necessity for these loans as akin to a life-support system that is essential until appropriate remedial programs can be developed and implemented.

As we have advised this Subcommittee on a number of occasions dating back prior to 1976 and the Fisheries Conservation and Management Act, our industry would experience great difficulty if we were forced out of our foreign fishing grounds; and particularly Mexico. The production in those areas, in relation to the total production in the U.S. waters, would not appear significant. That production did, however, have a disproportionate benefit to the U.S. shrimp producers and processors by furnishing product and thereby cash flow through our industries during the off-seasons in U.S. waters. Since being locked out of the Mexico shrimping grounds a year ago, shrimpers have been turning to alternative fisheries, i.e., long-lining, tuna, swordfish, etc. We believe this is the way of the future. Early forecasts would indicate further development, refinement of multi-purpose vessels, convertible equipment, etc. will furnish our industry with adequate alternative revenues sources during periods of the year when shrimp production is non-existent or at a low level. These transitions, however, are still experimental and extremely costly, with crews and vessel owners going through the pains of education by trial and error. At the same time, our normal cost of operations have greatly accelerated at every level. Although financing and fuel costs have been the most dramatic, every facet of the operations has experienced enormous cost increases. While it is true many vessels have entered our fisheries in the last two years, drawn into this industry by financing packages and tax shelters, the fishermen for whom we seek support are fishermen who have been in this industry for generations. They are hearty, strong-willed, dedicated and religiously independent. But, a multitude of events over which they had no control have culminated in the current economic situation. They are in desperate need of the kind of financial assistance which we request. Granted, this type of assistance may prove beneficial to those who may not deserve it. The alternative, however, is to do nothing and force bankruptcy on an honest, legitimate, hard-working fisherman who clearly does not deserve it. This is essential—if these family fishing businesses are to survive to benefit from the programs, the development activities, and the future which H.R. 7039 envisions for the U.S. fishing industry.

Further, Mr. Chairman, the Fisheries Loan Fund which we are addressing in this legislation should be reactivated immediately by the Administration. As you are aware, the Administrator of the National Oceanic And Atmospheric Administration (NOAA) has the authority to remove the moratorium which has been on this loan fund since 1973. While the $6 million which currently constitutes the fund would not be sufficient to answer all these needs, it would furnish some immediate response to the more desperate situations. It would also get the mechanics in motion and, therefore, have the Department of Commerce better equipped to cope with this legislation. I would hope further congressional, attention could be focused on the NOAA Administrator to achieve this end.

Section 301 and 302 of your legislation would provide for the phase-out of foreign fishing and impose new fees upon foreign fishermen licensed to fish within our Fishery Conservation Zone. The NSC heartily approves and supports both goals. Although we are not bound to any specific format or plan by which these goals might be accomplished, we support the objective sought in both instances. In addition, while we recognize it is not within the jurisdiction of this Subcommittee to establish tariffs on foreign fishery products entering the U.S.; however, when you consider the intent and purpose of H.R. 7039 and the objectives of these hearings, we believe that this is an appropriate forum to present a recommendation that a duty be placed upon all seafood imported into the U.S. This duty should be in the amount of 5 percent of the value of the product unless that product already carriers a duty in excess of 5 percent. No additional duty would be placed on those products. We feel a 5 percent ad valorem duty would not only be a reasonable amount, but would be consistent with what our government has placed on other products carry approximately the same level of duty. Those agricultural product import duties have contributed substantial sums over the years which proved to be extremely beneficial to this country's agriculture community. We believe the time is right to afford similar treatment to seafood products and the American seafood industry.

This imported seafood duty concept can provide direct benefits to the domestic seafood industry and indirect benefits to the foreign exporter who is dependent in good measure on U.S. markets. It is estimated that a duty of this nature would generate in excess of $100 million per yeare. We would anticipate and recommend that those funds could be utilized as follows:

A portion of the revenue to be placed in a fisheries loan fund.

The greatly expanded fisheries loan fund could expedite the rejuvenation and expansion of our domestic seafood industry, including developing domestic shoreside facilities. As many in the industry will advise you, their inability to move into underutilized and unutilized species or into species which have not been developed in a particular region, has, in many instances, resulted from the unavailability or inadequacy of shoreside facilities. Reasonable financing from U.S. lenders or investors for expansion or improvement of those facilities is not available.

A portion of the revenue to be used for development programs directed toward operating efficiencies.

You will hear testimony time and again by representatives of many segments of our fishing industry who attest to their inability to cope with the higher and higher operating costs. It is a basic mathematical quotient—to make a profit you must generate revenue in excess of your consensus of vessel owners and processors is that we must develop less costly methods of producing and processing seafood. We need a revenue source for funding, in some measure, the kind of seafood research and development. In our judgment, it would be inappropriate use of monies derived from imported seafood products.

A portion of the revenue to develop a stronger, more broad based market for seafood products in the U.S.

There are many areas of our country where seafood is not a basic part of the diet, both in terms of ordering in restraurants as well as purchasing at the food market and preparing in the home. In these areas, seafood products are treated as specialty items, and when faced with a limited budget, these are the first products to be eliminated from the diet plan. We believe that it is essential, therefore, that a continuing widespread consumer education program be established which would educate the homemaker and the public-at-large as to the practicality of seafood products in terms of protein value, delicious taste and economy.

For instance, a consumer education program could point out ways to use seafood products other than the limited or traditional methods. For example, shrimp, which may be very expensive when eaten by the piece (fired or boiled), can be an economical product if served to the family in a casserole, creole, or other form where the cost of shrimp per serving is substantially reduced.

A consumer education program would serve our domestic industry directly be developing a stronger, broad-based market for their products and make them less susceptible to regional economic conditions. A stronger U.S. market is indirectly beneficial to the foreign exporter as well, in that over 50 percent of the seafood sold in this country is from foreign sources. All expenditures and undertakings to strengthen the U.S. seafood market would be of equal benefit to the foreign exporter.

A question often raised is how would a 5 percent duty impact on the consumer. An analysis which I have received from a number of seafood importer/processors would indicate that it will not affect the consumer. They point out that in the current world market situation where subsidized fisheries is the norm, there is more than sufficient differential between cost of production in that country and sales price in this country so that those foreign exporters can easily absorb the 5 percent duty. Further, a strengthened domestic industry, including production, processing and marketing, enhances the probability that the U.S. consumer will always be provided seafood at reasonable and acceptable prices. The more dependent we become on foreign product, the more control foreign governments have over our marketplace and the more control they have over the price which the consumer must pay.

Therefore, Mr. Chairman, we strongly recommend that the Subcommittee accept as an amendment to this bill language which would provide for a 5 percent duty on all imported seafood products not currently carrying a duty up to that amount. The revenue should be earmarked for the purposes of providing for research and development directed towards the development of more economical methods of producing and processing seafood, for a consumer education program directed towards establishing stronger, more broad-based markets, and a fisheries loan program directed towards sustaining and developing our domestic fishing industry. If, in the Committee's judgment it would be inappropriate to amend H.R. 7039 in this manner, we would hope, Mr. Chairman, Mr. Forsythe and other Members of the Subcommittee, that you will work directly with the Committee on Ways and Means to have legislation for that purpose, introduced and moved as quickly as possible through hearings to enactment.

S/K funds, currently the point of great discussion in many quarters of the legislative, executive and private sectors, have not been utilized in our judgment for the purposes initially intended. We, therefore, support your amendment to the S/K Act which mandates no less than 75 percent of S/K monies be directed towards industry initiated projects and that the entire balance be used for fishery development efforts of the National Marine Fisheries Service. We would, however, like to recommend that the language which provides for a floor of 50 percent and a ceiling of 75 percent, as relates to federal matching funds, be amended to provide for a floor of 75 percent with the possibility being afforded, on appropriate projects, for 100 percent S/K funding.

Mr. Chairman, as we said at the beginning of our testimony, we support H.R. 7039. We have emphasized our support by section where we felt some amendment, expansion or alteration would be in the best interests of the industry. We have not enumerated our support section by section since we felt that time and the length of our testimony on other parts of the legislation would make such an enumeration lengthy and inappropriate. We thank you, the committee members and the committee staff for the attention you have afforded this industry and for the time, deliberation and effort which was necessary to bring this bill together. You have recognized many factors which have been gnawing at the souls of fishermen for many years:

Fact: Approximately 60 percent of all seafood consumed in the U.S. is imported.

Fact: Imported seafood totals $3.8 billion.

Fact: U.S. exports of seafood amount to only $1 billion annually.

Fact: Approximately, 1.4 million lbs. of product could have been caught; and may have been caught in U.S. waters, processed abroad, and shipped back to our markets.

Fact: Substantial numbers of countries exporting product to the U.S. have their fishing industries subsidized.

Fact: Virtually every country to which we ship seafood has substantial import duties.

Mexico provides a very illustrative example of the above mentioned facts. Mexico is the largest exporter of shrimp to the United States and brought into this country approximately $295 million of shrimp in 1979. Mexican fishermen pay 17 cents per gallon for diesel fuel for their shrimp vessels. The U.S. shrimp fishermen pay 90–95 cents per gallon for diesel fuel for their vessels. Mexico has an import duty of 25 percent ad valorem on shrimp. The United States has zero ad valorem duty on shrimp. Mexico has phased all U.S. shrimp vessels out of Mexican shrimp areas. Although Mexican scientists agree with U.S. scientists that a surplus of shrimp exists in certain areas of Mexican waters, Mexican politicians refuse to acknowledge the surplus.

I hope your congressional colleagues will not refuse to acknowledge the many facts which you and your fellow Committee Members are presenting to them. I hope they can recognize the importance, the merit and the necessity for H.R. 7039 and will join with you and the sponsors of this legislation in moving it to speedy enactment. You have our support.

Thank you.

Mr WYATT. That concludes the panel, Mr. Utz?

Mr. UTZ. Yes, sir.

Mr. WYATT. Bill, would you repeat for me the information you gave a moment ago on Mexican import duties, in the last part of your testimony.

Mr. UTZ. Twenty-five percent ad valorem with shrimp.

Mr. WYATT. There's a 25-percent ad valorem on shrimp?

Mr. UTZ. That's correct.

Mr. WYATT. Is that of the value of the catch exported to Mexico?

Mr. UTZ. That's correct.

Mr. WYATT. Or unloaded in Mexico, or both?

Mr. UTZ. No, that's the value of frozen shrimp exported into Mexico.

Mr. WYATT. It's 25 percent duty.

Mr. UTZ. Twenty-five percent duty.

Mr. WYATT. And our shrimpers are closed—Mexico will not let us shrimp in their waters?

Mr. UTZ. That's correct.

Mr. WYATT. They can shrimp in our waters?

Mr UTZ. No, not at the moment. In order for them to shrimp in our waters, we would have to establish a shrimp plan that would reflect that we had a surplus of shrimp available for foreign fishing effort, and the shrimp plan that has been put together in the gulf indicates that there is no surplus for foreign shrimp activities. And by virtue of that, there would be no permits available to them at this time.

Mr. WYATT. Because of Mexican exports, I take it that their market is 100 percent supplied by Mexican shrimpers?

Mr. UTZ. I'm not sure where they secure most of the shrimp for their market within Mexico, but I would assume that they supply a substantial portion of the market in Mexico with their products.

Mr. WYATT. This apparently is a low year, and, in terms of consumption, 1979 was also somewhat low.

Mr. LYLES. Consumption was lower in 1979, yes.

Mr. WYATT. It dropped.

Mr. LYLES. Yes. Per capita consumption was lower in 1979 but the calculation of per capita consumption is based on a number of factors, one of which is your beginning and ending inventory. And if you happen to be holding high inventories at the end of the year, this is reflected in the per capita consumption. The trend in per capita consumption of shrimp is, you might say except for some fluctuations, steadily upward.

Mr. WYATT. Have we been receiving about the same amount of imports from Mexico over the last 2 or 3 years? This came up yesterday. I'd like to try and clarify this particular area.

Mr. LYLES. Would you repeat that, sir?

Mr. WYATT. Have we been receiving the same amount of imports from Mexico, or are imports of Mexican shrimp up ?

There's a shrimp market report that I'm looking at for April of 1980 that shows that imports in 1979 for, I guess, heads-on shrimp was 11.7 million; 1977, 10.9 million; 1978, 8 million—it dropped substantially. What is the reason for that drop? Does anyone here know? In 1979 it went down again to 7.8, and then in 1980 is it up or down from what we assume that 1979 is going to be?

Mr. LYLES. I don't quite understand your figures. The imports from Mexico for 1979 were 71.9 million pounds; 1978, 72.5 million; and in 1977 it was 76.3 million.

Now, there is a slight decline. To answer your question, I would have to see where this shrimp went. It may have gone from Mexico to another country. And that could be for a number of reasons. I'll be happy to look into that for you, and give you a letter on it, sir, if you would like.

Mr. **Wyatt**. I think that would be important, and the reason I'm asking this question is, it would appear to me that we don't have an open market situation across the board, and what we have is a situation where the Mexicans, for instance, with 17 cent fuel can continue to produce shrimp at a much lower price than we can produce. If everything was equal, we can compete on a fair basis is what I'm saying. When you start changing rules in some segments of an economy, you therefore don't have a fair market, nor free market situation. And therefore, we could equally look at some kind of legislation when you get into this kind of a squeeze and look at provisions in this bill and see if we it might be able to correct that.

For instance, I think in the cattle market with imports, you have a base price, or a base of consumption in this country. As the consumption goes down, imports decline. As you begin to have consumption rising, imports decline.

So, in essence, you have a more stable price, and you've gotten rid of the peaks and valleys somewhat in the cattle market. And I was wondering if this could be applied to shrimp as well, or to fish in general?

What would be your attitude toward a plan like that?

In other words, you reduce the amount of shrimp that can be imported into this country as the consumption in the United States falls.

Mr. **Utz**. The theory sounds good. I'd have to—really, I think we'd all have to examine it first to see if you could fine tune it to see if we could make it work. But the theory sounds good.

Mr. **Wyatt**. Well, I don't think I can fill out a formula right now, nor would you all have one; but right now you would probably say "no imports at all," and get the price up. That would wipe out that differential. We're not trying to do that. What I'm trying to say, though, is you don't get yourselves into a situation where you're talking about large import duties on foreign shrimp. It's just the question of how much can come into the country.

Mr. **Hagan**. Well, a good example is, this time of year is normally—the price of shrimp are the highest during this time of year, and they start to take a gradual decline when the big production in Louisiana and Texas start. This year, the decline is already upon us. The price of shrimp today compared to last year, we're talking about $1.40 cheaper shrimp right now; which leads to another problem that was brought up earlier.

The consumer out in the market does not realize that, which hurts us in moving our product. The restaurants and all are not lowering their price $1.30. So, we're already in a depressed market, but with the fuel costs, I look at it from a differential of what we pay for fuel, what it costs us to produce a pound of shrimp. We can just in no way compete when they're paying 17 cents. Like I heard early in the morning in testimony, if somebody will please give us the name of the individual in Mexico, and our Government will let us do it, and have the Mexicans sell us 17 cent fuel, we will depart this room immediately. That is not—I have never heard of that. None of my cohorts in Texas or anywhere else has heard that. But if I could find 17 cent fuel in Mexico, I'd run my boat from Florida all the way across and fill them up, because it would be profitable to me.

Mr. WYATT. Mr. Forsythe?

Mr. FORSYTHE. Thank you, Mr. Chairman and I thank the panel very much.

Believe me, I'm searching for help in the questions I'm asking in these hearings, because I fully recognize your problems.

Bill, I'd like to go to your last point on the 5-percent duty, fee, tax, whatever; recognizing as you did that this committee does not have jurisdiction. But I think the case should be made here.

I was just looking over the S–K numbers in terms of what the U.S. duties are. I see the U.S. tariffs range all the way up to 35 percent ad valorem, and in shrimp it's zero. I think there is a very substantial case here for a shrimp tariff. But I'm wondering whether you really want to talk about a 5-percent across-the-board tariff, or whether you want to see if we can do some research and look at a more targeted duty in terms of shrimp, particularly in view of the differential which seems to be the major problem regarding fuel costs.

Mr. UTZ. I think in answer to your question, we have asked in the past, we went through extensive hearings before the International Trade Commission on that very point, to establish some type of quota, or constraint similar to what was just suggested by Congressman Wyatt. We also asked at that time that a duty be established on shrimp that would put us in the competitive posture with the imported shrimp that was coming to the United States.

I think two things. First, we would have no objection to that at all. But we see that as a different question and a different purpose to be accomplished than what we're looking for in the 5-percent duty that we address.

We see the 5-percent duty as one that would be across the board on all seafood products. First, it would at a very minimum level as far as the cost on each particular product, since it's ad valorem, would be a relative duty that should be insignificant in each instance, but cumulative over all the fishery products would generate quite a bit of money that could be utilized for the benefit of the fishing industry. And further, at that level, the duty should not have any impact whatever on the U.S. consumer.

Back over to the question that you are posing, it seems to me that we could do that in addition to the 5-percent duty, that we could come back and look at the shrimp situation in particular. And over a period of time with adequate analysis of the situation, make a judgment as to what really would be necessary for us to be put on par with the product that's coming into this country, and possibly in addition to an equalizing, or countervailing duty, or what have you, come in with a quota similar to what Congressman Wyatt suggested.

I think both would be a benefit to the industry. But the 5 percent we're addressing now, we see as having a different purpose, having a much more significant impact, it seems to me, for the benefit of all the fisheries in the United States.

Mr. FORSYTHE. Well, I can understand that, and I think there may be merit in that.

What was the reaction that you got in your negotiations?

Mr. UTZ. We spent a lot of——

Mr. FORSYTHE. Was it our negotiators that you couldn't get the ear of?

Mr. UTZ. Well, we held hearings in Washington, New York, throughout the gulf, on the Atlantic coast. The industry presented quite a case. The final outcome after months and months of debate, discussion, and going through all the massaging that is necessary with the ITC, they came out agreeing with us that our industry had been damaged, but this was some 18 to 20 months after the crisis that we were confronted with had occurred, and when we were in there asking for assistance. And they made the judgment that we had been injured, but by the time they were preparing their decision and writing their decision, the entire economy had turned around——

Mr. FORSYTHE. You were well again and you didn't get any help.

Mr. UTZ. We were well again and therefore we didn't need any help. It's kind of like the guy that comes out to look for your hole in your roof. If the sun is shining, he can't find it; and when it's raining, he can't get up there to patch it.

Mr. FORSYTHE. Yes. It's no laughing matter, as you know. It's a horrible situation that you'll find yourselves in all too often. Believe me, I'm not backing off the loan program and so forth but I am concerned, and it was said by your panel and said by others, that this may be a temporary palative, and hopefully it does make possible the research, and the transition into other fisheries. They're all highly important, but I don't see in the near term a solution to the fuel differential situation, because they've got the oil in the ground and we don't.

Mr. UTZ. We don't see the loan program as a panacea for our problems.

Mr. FORSYTHE. No. That's the point that I just want to make sure that we don't come away from this as having, either us or any of our witnesses believing that that is the case, because one of our problems with the 200-mile zone was that some people thought it was doing one thing when it really wasn't.

Mr. UTZ. We really see all of this as being a cumulative set of ills, that no one thing in the bill or no one thing that we are requesting or proposing here is going to be the answer. It's somewhat akin, I guess you might say, to the heart victim, or the heart seizure victim. He needs some type of life support system until you can get him to the operating room and examine all of his woes, and perform the necessary surgery that's going to put him back into a totally viable situation that he can sustain himself without this type of life support system. Right now we need some——

Mr. FORSYTHE. And don't debate when you're going to start the life support system.

Mr. UTZ. That's right. Because as we see it, the duties on the incoming product present us with revenues that can be reverted back to the industry for the assistance of the industry, and assist us in all these transitions, and the fuel question and the other things that we need, we can look at the loan program as that life support system that keeps us whole and keeps us viable until we can get these other programs into play.

Mr. FORSYTHE. On the question of the boat situation, Mr. Collins, you testified that you really thought it was the fuel situation that was the overriding burden. Mr. Lyles indicated there were too many boats fishing in the gulf.

Do we agree that both of you are right, that it is not either one or the other?

Mr. COLLINS. I don't believe that there are too many boats. There's a lot of talk about overcapitalization. I don't remember Charley Lyles saying that, but I think you have to remember, in the sale of boats, 171 boats that we sold and delivered last year sound like a lot of boats, but all of them did not go into the Gulf of Mexico. Twenty percent of those went to foreign countries. Another 20 of those went to the Northwest. Some others went to the Northeast.

In January, in St. Petersburg, Dr. Jack Greenfield of the National Marine Fisheries Service made a presentation, and the presentation summarized in my words, essentially said this, that there is no evidence tnat exists that says there is overcapitalization in the shrimp fishery. And he cited quantities of boats that went into the shrimp fishery over a period of years, and he also cited of that quantity, how many of them went toward the replacement of boats that had sank or just fell apart, or whatever. His conclusion, based on his his study indicates there is not an overcapitalization problem in the Gulf of Mexico.

Mr. FORSYTHE. Including the fact that the closeout of the Mexican waters has brought back to American waters a substantial number of boats?

Mr. COLLINS. Well, the closeout this year brought back, I think, 80 or 95 boats. The major problem in Mexico occurred in 1976 or 1977.

Mr. FORSYTHE. Well, were there boats brought back starting in 1976?

Mr. COLLINS. Of course. But when you talk about overcapitalization, that has to get into overfishing. Is there overfishing? There's no evidence to indicate that there is overfishing of shrimp. You also must remember that the current trend in the Gulf of Mexico—and you heard the Texas people talk yesterday—is that there will be continued conversion of shrimp boats to other fisheries. Not necessarily because of the availability of shrimp, but because of the price of fuel, and the amount of fuel that it takes to catch shrimp.

Mr. FORSYTHE. Well, I mentioned Mr. Lyles, and I'd like to go back, because it is on page 5, and I may have not quoted him quite correctly. The large number of vessels has reduced each vessel's catch.

Mr. LYLES. Let me explain that just a little if I might, sir. I just happened to write this out a minute ago here, and it's my definition. I don't know whether it fits everyone's definition or not. But overcapitalization exists when capital, labor, and efforts expended in the fishery is greater than that required to harvest the MSY. We don't really know what the MSY is in the shrimp fishery. But if you'll notice in my statement what I was recommending was that we do research toward increasing the harvest in relationship to the amount of fuel.

What has happened is that we're not catching enough shrimp now to pay for the fuel bills. If we could get into this utilization of the fishes that we discard now, we might create a better situation with regard to that relationship between fuel and catch. And I think that's what we should think about, not just leaving the fishery in a static condition. But we are reducing our catch per boat all the time.

Mr. FORSYTHE. Well, I guess you come up with the right point, that if we need better data and research to really know where, but apparently there is a reduced catch per boat. And that is kind of elementary if you've got too many boats and not enough shrimp.

Mr. HAGAN. Sir, could I address that?

Mr. FORSYTHE. Mr. Hagan, you were the one——

Mr. HAGAN. Originally when we start on the Mexican—when the agreement went into effect, we were talking about 318 vessels, and it was a phasedown over a 3½-year period, down to a total of 95 boats. We were going through that phasedown, and we did not have any problems with too many boats in the gulf. I do not believe there are. But when we put the fuel price at the rate it has gone up in the last year, that's the reason that we go into the negative cash flow. This time of year, stateside production is lower. In my particular case, it affected me more because you have good catches in Mexican waters at this time of year. So when I came back where I used to could make it on a 20-box trip, I lose money now on 30. And it's all because of fuel.

Mr. FORSYTHE. All right. That makes a lot more sense than the concept we've been talking about all day.

Mr. HAGAN. But we planned this phasedown. We knew they would never renegotiate with us regardless that they should, and we should have the right to be fishing there right now, because I've been down with the State Department on all the latest negotiations, and our scientists proved through tagging how they migrate and all; but the Mexicans have deaf ears to us. And our State Department won't push hard enough because of the oil.

Mr. FORSYTHE. Well, I won't argue the point at all. But we're trying to deal with life as it is today, and your problem.

Mr. HAGAN. But it was a planned phasedown.

Mr. FORSYTHE. That's true, and you started with 318 and came down about a hundred boats a year, roughly.

Mr. HAGAN. Yes, sir.

Mr. FORSYTHE. So, overall it brought some 318 boats back over the phasedown total, which actually in the total boats in the gulf, that is not a really big percentage.

Mr. HAGAN. No, sir.

Mr. FORSYTHE. What have you got, some 6,000 boats in the gulf? So, you're talking about a half of 1 percent.

Mr. UTZ. In followup to that, sir, I think it's been stated, the phasedown was absorbed without too much difficulty until in the last 2 years where we have suffered some substantial rain problems and freshwater problems in the gulf. A number of those things have had a definite adverse impact on the shrimp supplies.

Mr. FORSYTHE. Well, I think you can understand why I'm pressing on these questions, because we have had this varying kind of testimony, and on this record I suspect you can get anything you want out of it, but I'm hoping to find a common line through here.

Mr. Chairman, I thank you very much. I thank the panel.

Mr. WYATT. Thank you, Mr. Forsythe.

Mr. Collins, do you support the Fisheries Loan Fund amendments?

Mr. COLLINS. Yes, I do.

Mr. WYATT. You do support the loan fund.

How about the countervailing duty on foreign shrimp? Are you in favor of that?

Mr. COLLINS. Well, only indirectly, obviously, because our business rests on how good the fishermen do, but I do, yes.

Mr. WYATT. Mr. Lyles, I think you probably just finished this with Mr. Forsythe, but in terms of talking about shrimp vessels, do you think that our fisheries loan fund proposals aggravate that problem by keeping marginal operators in business, or do you think there are too many new people going into the business?

Mr. LYLES. I don't really think so. It's true you do keep a marginal operator in business now and then. But that's one of the prices you have to pay for maintaining the industry, I think. If you have capable deckhands that desire to purchase their own boat and get into the business, I think you have to have some vehicle by which these people can be elevated to a better position in your industry, or pretty soon your industry doesn't attract anyone. So, yes, I support this.

Mr. COLLINS. I'd like to add to that that the qualifications that are necessary for the main to get approval are fairly well laid out. The man must have experience, and there were some comments made yesterday about lack of experience in captains, and I would just like to cite one particular fleet which is almost been built exclusively on title XI funds, and most of the owners are doctors, lawyers, and Indian chiefs. In the average experience in the captains in that fleet is 8 to 10 years as a captain; in the neighborhood of 20 to 25 years as fishermen. And most of the captains are in their 40's. So, any talk about inexperienced captains or inexperienced people getting into the fishing industry via the title XI loans as far as my experience, it just isn't true.

Mr. WYATT. Would you object, then, Mr. Collins, to writing prohibitions into the law that would state that a person, in order to obtain the loan must have the experience that you talked about, and therefore disallowing those who are looking for some sort of a tax shelter to buy boats?

Mr. COLLINS. I don't think I'd better comment on that question. My customers are on both sides of that street.

Mr. WYATT. Well, I understand that. But, as you know, we're not trying to write Government legislation to help people get a tax writeoff. I don't mind helping people who have been in the business for 25 years, who are 40 years old, who make their living out there as a deckhand possibly, and who show expertise, but I don't think we ought to allow a doctor necessarily to go in and buy that boat and put this guy to work. It may be a little bit better paying job, but we're not talking about private business there.

Mr. COLLINS. I'm not sure that I—I think I would support anybody being allowed to get that as long as he can demonstrate that the operator of that boat has got experience, because it does bring in capital into the industry regardless of the source, and regardless of the motive, bringing capital into the industry from wherever it comes, I think in the right kind of fishery, it's a good idea. I think that the experience, or the people that I've known that we've sold boats to that we've done it this way, I think it has benefited the industry and it's not only occurring in the Gulf of Mexico. It's occurring on the west coast. And I think it's another added area where capital can come in.

Mr. WYATT. If defaults on the notes begin, we ought to start looking to make sure that those defaults aren't falling more heavily in the areas where the boat captains truly don't own the boats.

Mr. COLLINS. I think the vast majority of the loans are toward individual owner operators as opposed to the doctors, lawyers, and Indian chiefs.

Mr. UTZ. Mr. Chairman, could I distinguish one thing? I'd like to make a distinction between the question of securing a guaranteed loan under the title XI program, and what we have essentially been requesting, and that is an expansion of the Fishermen's Loan Fund to make direct loans for the purpose of being able to assist these people that are already in the industry, that already have boats that are threatened with possible demise of their entire business, because we're talking about people that are in the industry whoever they happen to be. And I'm not sure that we can come up with a formula that distinguishes one boat owner from another except to say, are you a vessel owner, and is your vessel in a serious financial situation from the differential between the cost of operations and return on production. That is where we are at the moment. We're asking for that type of immediate assistance. The question of how you establish guidelines for title XI guaranteed loans to me is a different question. And if I understand correctly, in order to get a title XI guarantee, you must have substantial experience. I can't quote exactly what those experience guidelines are, but I understand that they are fairly substantial, and it could well be a question of how well those guidelines are being policed.

Mr. HAGAN. I'd like to make a comment on that.

I think when the loan program was originally designed, I think it had some good intent into it. And on qualifications of the man running the boat and all, I feel that if the tax advantages were kept relative to the shrimping or seafood industry instead of an individual that makes a million dollars over here so he can come in and buy him a shrimp boat, get his investment credit and all this, get a big tax write off, he doesn't give a damn. But I'm in competition with this man, trying to make a living.

So, I think he should have a free chance to get into the shrimp business, but the big tax advantages and all, I favor them staying with the fishing industry instead of using it to write off other income.

Mr. WYATT. Well, of course, that certainly is not within the jurisdiction of the committee to change the tax law. But I think you're beginning to point to a real problem. The problem is that you who own your own boat and who are relying upon the fishing industry, when you go into an economic crisis of some kind, that fellow that's in the industry because he's getting a tax writeoff is still there, his tax writeoff is still coming, and he might not have the same strong feelings about the fishing industry and obviously does not as you might have, but you're the one that suffers because that's where you are, and you don't take in patients on the side to stitch up feet, or whatever it is. You're a shrimper. A doctor is still going to have those stitches he might can put in, but he's not near as concerned about the industry. And that's what we're doing with the loan program, trying to stimulate the fishing industry and not create some form of a market for somebody else.

I have another question if I may because I want to get back to this consumption and import question.

Has the percentage of total shrimp in the warehouse changed? And I guess this is the question that I want to ask. In other words, are our warehoused shrimp going up due to the percentage of the market from foreign sources, and is consumption of foreign shrimp going up as a percentage of total shrimp consumed in the United States?

Mr. LYLES. It fluctuates, sir. For example, in 1979, 56 percent of our shrimp that we used in this country came from foreign countries, and only 44 percent was produced in this country

Mr. WYATT. What was it in 1978?

Mr. LYLES. Well, 1978, I don't have the percentages figured out and I didn't bring my calculator, but it's about 52.8.

Mr. WYATT. What do you think it's going to be in 1980?

Mr. LYLES. The way it's going now, sir, and the way I anticipate the season as far as harvest goes, it will be close to 70 percent imports and 30 percent domestic production.

Mr. WYATT. That is a very dramatic shift of the balance between imported shrimp and domestically caught shrimp in terms of total consumption.

Mr. LYLES. Let me explain that.

We've had an environmental disaster from Texas through Louisiana where the majority of the shrimp in the gulf are raised and harvested. I think that according to the resource assessment and monitoring of this resource that's going on now, there will be a very serious disaster this year. Already, imports are increasing, and this is the reason for the foreign market taking the larger share of it. There simply won't be that many shrimp to harvest this year. I could be drastically wrong, but right now thats the way it looks to me.

Mr. WYATT. Now, Mr. Lyles, what I think I could hear you say from that is that the fuel differential doesn't make any difference at all this year. The problem is the amount of shrimp that's out there to catch.

Mr. HAGAN. No, sir.

Mr. LYLES. That's really not what I'm saying. But there is going to be a very short supply of shrimp and fuel prices are very high, and that's the reason we face——

Mr. WYATT. A short supply of domestic shrimp.

Mr. LYLES. Right.

Mr. HAGAN. Could I address that, sir?

Mr. WYATT. Sure.

Mr. HAGAN. Now, yes, there will be less shrimp produced in the U.S. waters this year, that is correct. For example, as Texas so testified yesterday, they've had their boats tied up because in the past the production and the cost of fuel was a money making proposition. This year with the same production, but due to the increase in fuel, it is not a viable business. So they have to keep their boats tied to the dock because it's losing less money.

Mr. WYATT. That's one aspect. Let me ask you another question. Would the amount of production be based on the cost of fuel, or on the number of gallons?

Mr. HAGAN. On the cost.

Mr. WYATT. Strictly cost. Well, now, that can't be, because—in other words, what I'm saying is, if it takes a gallon and a half of fuel to catch a pound of shrimp last year, it would take you 2 gallons to catch a pound of shrimp this year, right?

Mr. HAGAN. No, sir, what I was saying, it took 1 gallon of fuel——

Mr. WYATT. How do you keep your consumption the same? How can you say that your production level is going to be the same if you don't have to use more fuel? It's not the same. Mr. Lyles made the comment that production, I think, is dropping because of environmental problems.

Mr. HAGAN. That is correct It did last year in Texas, for instance.

Mr. WYATT. But you're saying that the production could be the same this year——

Mr. HAGAN. If we could afford to send our boats fishing, but we cannot send the boats out there for a box a night. They would burn the same fuel as they did last year, but we were paying 40 cents last year and we're paying 95 cents. So, that 100 pound of shrimp last year that we got $5 for, we're getting $3.80 for this year. We're consuming the same amount of fuel.

Mr. WYATT. And for the same amount of fuel you could catch the same amount of shrimp?

Mr. HAGAN. Yes, sir, but we can't afford to go from the dock and lose money.

Maybe I don't understand the question.

Mr. UTZ. No. Also we have a question, too, in terms of low production, as to the question of low production or no production, because right now, it would be very difficult to make an analysis of what the situation is, because most of the fleet is tied up. As Mr. Hagan pointed out, they can't afford to go fishing right now. So, right now, it's very difficult to assess exactly what the situation is. Later in the season when the shrimp are larger, when the price of shrimp that you're catching is better, you might be able to make a better, a more finite assessment as to exactly what you're confronted with. I think—you're hearing two things. I think you're hearing what we're forecasting as a result of the environmental conditions, and what they're confronted with on an economic level with the conditions as they are at the moment. In both cases, they're forecasting a pretty gloomy picture. Here's a case where regardless of the environmental conditions, the cost of fuel right now makes it virtually prohibitive to go fishing because of the price that you're getting for your product.

The other case is the question of what will be the production this year.

Mr. WYATT. Yes, and I think what Mr. Lyles said and he was talking about this year, and what you said is that if the boats were out there, they would be catching less shrimp with the same amount of fuel because of the environmental problems that you're experiencing, is that correct?

Mr. LYLES. That's correct. Our indices of abundunce, sir, that we watch, I have been watching them for a number of years, they're based on samples of the small shrimp that are in the bay. Our indices of abundance are way down. I would estimate that all other factors being equal, that we will run in the vicinity of 38 percent less than last year. That's a broad guess. It could vary a little, but the indices of abundance indicate that these animals are very scarce. This has been caused by very unusual environmental conditions.

Mr. WYATT. Now, if I might here, making that assumption, Mr. Hagan, you would then say it would require more fuel to catch the same amount of shrimp?

Mr. HAGAN. He's talking about Louisiana, sir.

Mr. WYATT. And Texas.

Mr. HAGAN. Yes, sir.

Mr. WYATT. All right. But in Florida, you have not experienced that problem, so your production would be the same.

Mr. HAGAN. Yes, sir. We've been catching shrimp right along, but our boats have gone into a negative cash flow.

Mr. WYATT. Let me ask this question.

What would the price of shrimp have to be to untie the boats in Texas and Louisiana, then? The price is $3.80 at the dock?

Mr. LYLES. I would guess around $6. I'd say $6.50, if you're going to—looking at the season and the possibility of harvest in Louisiana and Texas and Mississippi, I would think you would probably have to make $6.50.

I don't know. There's some fishermen here that might not——

A VOICE. That's good enough. Real good.

Mr. WYATT. And if it was $6.50, the boats would be out shrimping?

Mr. LYLES. They'd move.

Mr. WYATT. Do you think that would bring the import export numbers back down to about 50-50?

Mr. LYLES. Well, that's——

Mr. WYATT. Not necessarily because the amount of shrimp wouldn't be out there in terms of the Louisiana and Texas area. I'm sorry, you've already answered that question.

Mr. LYLES. No, I don't know whether that would have too much effect on the imports or not. My understanding of what is in the cold storage is that it's mostly large, and that the market at the present time is demanding small. If the foreigners have small shrimp, they might reasonably dump them in this country in considerable quantities which in turn would affect your market on your larger shrimp. So, it's hard to answer that question. I mean, there just isn't any answer. I don't have any way of indicating what would happen in that circumstance because there are no statistics to back it up.

Mr. WYATT. Let me ask you a hypothetical question, then, and whoever can answer it may.

What if the imports of shrimp were limited by, say, 50-percent? With 12 million pounds caught last year, we would say you could import 6 million pounds. What would that do to the price in this country?

Mr. LYLES. It would elevate the price, sir.

Mr. WYATT. Do you have any idea how much?

Mr. LYLES. I really don't think I'm qualified to do that.

Mr. WYATT. Bill?

Mr. UTZ. I think it seems to me that just to say—you get pretty much back to what Mr. Lyles started out addressing, and that is the question of what size shrimp you're talking about. If you had a 50-percent limitation, are you saying 50 percent of each bracket, or if you just say "50 percent", I think it has to be fine tuned more than that to come up with an accurate answer; but the logical assumption would be that if you cut imports in half, and especially if your production is low, shrimp is going to have to come out of the inventory to some degree.

Mr. WYATT. Well, is the pricing problem—you know, there obviously has to be a pricing problem involved in the market itself, because you've gone from, what, $5.60 last year to $3.80? You lost $1.60 per pound, is that correct?

Mr. LYLES. That's about it, sir.

Mr. WYATT. You've lost $1.60 a pound in terms of price. Your fuel cost is doubled.

Mr. UTZ. There are several factors involved in the price going down, and one of those factors is the high cost of money. It's really a question of who is going to hold the shrimp, and right now, most of the retail outlets, and roughly about 85 percent of your shrimp is sold through the restaurant chains, or through restaurants and retail outlets. Those people are confronted with extremely high interest rates, and it's a question of how much inventory are they going to hold in their restaurants. And most of the restaurant people that I've talked to recently have cut their inventory holdings as much as 70 and 75 percent. So, somebody has to hold that product and right now it's being held more or less as close as possible to the dock level. Because as soon as they get it off the boat, it tends to stop. And what you're confronted with is that the restaurant people aren't buying and that is one of the factors, too, that's depressing the market. And that factor is created primarily because of high interest rates.

Mr. WYATT. Thank you, gentlemen.

Mr. WOLFE. Mr. Wyatt, could I make one statement?

Mr. WYATT. Sure.

Mr. WOLFE. Just in closing, just to put everything in some sort of perspective, for the last half an hour we've had good discussions, and we've had a lot of good food for thought. Primarily, I think we've been talking about long term plans in the subjects that we've been discussing. I think it's important to emphasize at this point the urgency of the existing situation and the need for immediate action. I think that first and foremost, as far as our industry is concerned, right now we're concerned with the lifting of the moratorium on the Fisheries Loan Fund, and then expanding the Fisheries Loan Fund as we have alluded to in our earlier testimony.

So, if I may, I would just like to conclude expressing and highlighting the urgency of the immediate situation. However, we are certainly looking forward to working with the Committee on these long term solutions.

Mr. **Utz**. One other closing point if we could, we've discussed quite a bit about imports and what we can do about imports. But the fact of the matter is, whatever level of imports we have coming in, [illegible] have us beat in the marketplace for every pound. If you're talking strictly about a Mexican products, they have the difference between 17 and 95 cents before the product ever gets to market, whether it's 1 pound or 1 million pounds or a billion pounds.

Mr. **Wyatt**. Thank you. Thank you, gentlemen.

Mr. **Breaux**. Thank you, Congressman Wyatt, for chairing for a moment while I was in a House leadership meeting.

Okay. I would like to welcome up Lucy Sloan.

Lucy, I think you have some people you would like to have accompany you. I note Jake Dykstra, and we welcome him as a good friend, back to the committee; and anybody else you would like to have, please introduce them and we'll move right along.

STATEMENTS OF LUCY SLOAN, EXECUTIVE DIRECTOR, FEDERATION OF FISHERMEN, ACCOMPANIED BY JAKE DYKSTRA, PRESIDENT, POINT JUDITH FISHERMEN'S COOPERATIVE, AND PRESIDENT, EASTERN REGION, NATIONAL FEDERATION OF FISHERMEN; KEN PETERSON, HIGHLINERS ASSOCIATION; AND JOE EASLY, FISHERMEN'S MARKETING ASSOCIATION OF EUREKA.

Ms. **Sloan**. Thank you, Mr. Chairman.

I have with me today, Jake Dykstra, Pt. Judith Fishermens Cooperative Association, and president, Eastern Region of the National Federation of Fishermen; Ken Peterson from the Highliners Association in Seattle, and Joe Easly from Fishermen's Marketing Association of Eureka.

There are a number of points that we'd like to touch on today, and I think that what I'd like to do is to address a few of them myself, and then ask Jake to look at the expansion that some of our people are trying to do into the European and Asian markets, and some of the issues there; and Joe, representing Fishermen's Marketing Association of Eureka is here in part on behalf of the joint venture fishermen. FMA Eureka has the fishermen who fish for the joint venture for Pacific whiting. He also is a past member of the council, and as such has been very much involved both as a fisherman and as a past member of the council in the development of the ground fish plan there.

Ken is partners in the American No. 1 which has been fishing for the joint venture up north, and will be fishing for the joint venture this summer. He also has a number of ideas on the question of total utilization and optimum yields that he might like to address

In addition, you have Zeke Grader, who is president of the western region of the federation. A letter on behalf of his organization, Pacific Coast Federation of Fishermen's Association; and you have Nancy Cartack who is president of the Pacific Coast Wives Coalition, a telegram on their stand on the phaseout of joint ventures.

They, as many of my other member organizations, did not address that, nor did I address it in the testimony. But with the way it has come up repeatedly, it is something now that I think that we're going to have to address. I think that many of my members had thought that when we achieved the three-tier systems in the joint venture amendment that that was the end of it, and we would get on about our business. It appears that that's not the case at this point

Briefly, we are very much in support of the joint ventures. We need the markets now, particularly with the tight market conditions on the west coast that Joe and Ken can address, and to a certain extent there is a growing interest in joint ventures on the east coast.

We are prepared to answer any of the questions along these lines, but our concern right now is that the joint ventures be recognized as a viable option available to our fishermen, and there is a question that I've asked half facetiously to which I've gotten no answer or even grimaces.

My question is this. If my people were to be deprived an alternative market, I wonder about the feasibility of depriving the processors alternative sources as well. That leads us, among other things, into the question of countervailing duties, and the 5-percent tariff that Bill and his colleagues addressed.

Although we recognize that this is not immediately under your jurisdiction, for us it is a part of overall fisheries development. And we have been though several variations on the theme, seeking tariffs and countervailing duties. Dick can address those issues in greater detail, but one of the more recent efforts is one that our members in New England who fish lobster are seeking to do. They put together a regionwide lobster organization. They are applying for SK funds to set up a marketing cooperative, and you heard the gentleman yesterday from the Mid-Atlantic Panel tell you the problems that they faced with the fish coming in from Canada in competition with the fish they were trying to sell in Boston.

The problem that our lobstermen in Maine and Masschusetts and Rhode Island and Connecticut, and even now New Hampshire are having, is the same problem that our fishermen are having with fin fish coming in from Canada. They cannot compete with lobster coming in from Canada.

This is something that I think we're going to have to deal with, because we cannot go on talking about developing some of these fisheries without being aware that when we talk about quotas or tariffs or countervailing duties, we get told this is a free trade nation. I think that Ken and Joe and Jake can all address the fallacy in that when we look at what our people have to pay for twine and nets. It's, as you gentlemen know, a prohibitive tariff that raises the cost of those nets as much as 50 percent in some cases.

So, although we recognize that this is not something which the bill specifically addresses, you have our specific comments on the bill and we would be happy to take any questions on those comments, or any other aspect of the bill.

That is something that I think we are going to have to deal with in the overall context of fisheries development.

Another particular concern that I mentioned in my statement, something I would like to re-emphasize here, we are very interested in the CCF extension, particularly the crossover provision. That is something I am getting calls about. Unfortunately there are some misunderstandings, and I've already gotten calls saying, "Lucy, can we use the crossover provision now to buy facilities that have been shut down?"

I've explained that unfortunately that provision has not yet been enacted into law, but there is a very keen interest both for specific properties and generally in the idea.

There were a couple of points raised by earlier witnesses that I'd like to touch on.

One of them is the question of finding alternative sources of product in the question of how significant, what the resources available in the U. S. FCZ really are.

Although we have heard for a long time that there are readily available sources of protein of one kind or another, marine protein available elsewhere in the world, it appears that this may not be quite so much the case now as it has—was even 6 months ago. And this goes to the second part of the point I wanted to raise, that although I understand the Japanese concern in their query to Mr. Macnow about whether they sould take their interest in joint ventures and other kinds of cooperative ventures elsewhere, it appears that the Japanese are running into trouble in other countries where whitefish and other marine protein sources may have been considered to be available. South Africa has severely cut back on the amount of fish that they are allocating to other than nationals because of their stock problems. Chile and the Argentine have also begun to take a much closer look at the question of cooperative arrangements of any kind. They're willing to talk about them, but they're much less likely to allocate the larger amounts of fish that they might have considered earlier.

Another point is that, yes, there may be alternatives available, but one of the considerations is that developing alternative product forms and gaining consumer acceptance of these means that it isn't just a question of taking your vessels and going elsewhere and everything is going to be resolved.

So, I think those are the points on which I wish to touch, and I'd ask Jake to start with his comments, and then Ken, and then Joe.

Thank you, Mr. Chairman.

[The following was submitted:]

STATEMENT OF LUCY SLOAN, EXECUTIVE DIRECTOR, NATIONAL FEDERATION OF FISHERMEN, APRIL 20, 1980

Mr. Chairman, gentlmen. I'm Lucy Sloan, Executive Director of the National Federation of Fishermen. NFF is the only national organization of commerical fishermen. Our members fish finfish, crab, shrimp, salmon, albacore tuna, eels, lobster, surf clams, swordfish, black cod, herring, sea bass, shark, and rockfish from Mexico to Alaska and from the Gulf of Maine to the Gulf of Mexico. We represent a majority of the organized commercial fishermen in the United States.

Shortly after I first circulated the details of HR 7039 to my members, one of my members wrote you, Mr. Chairman, that his first reaction was "that I had fallen asleep and woke up in fisherman's heaven!" For the most part, that fairly accurately sums up my members' initial reactions to your legislation. And certainly, this proposal has done us the invaluable service of stimulating our thinking to consider broader possibilities for development than we all had focused on before.

The "American Fisheries Promotion Act" encourages us to build on earlier proposals on which we have already testified before you; for that reason, rather than repeat myself on those points, I request permission to submit for the record on HR 7039 the brief statement I made in philosophic support of certain of the provisions which you have included in your legislation. Then, today, I shall comment on these specific points in HR 7039 in which my members have expressed a particular interest. We in NFF look forward to working with you all to help ensure that this beneficial proposal is soon enacted in law.

TITLE I—RESEARCH AND DEVELOPMENT

The acknowledgement of in-kind contributions as reasonable cost-sharing in an industry proposal under this Title is one of the major points which my fishermen would ask you set forth in this legislation. The National Marine Fisheries Service has expressed dissatisfaction with certain forms of in-kind contributions to a project. We can foresee many instances where a fisherman's time, the use of his vessel or of a cooperative's or marketing association's facilities would be an integral part of a proposal. To reject a proposal on the basis of inadequate amounts of industry dollars involved in its implementation is absurd.

We are also concerned that we be able to work you to ensure that more effective industry review of proposals be a part of the approval process. Our people in all regions have expressed their concerns over the NMFS' complete control of this process. We see this Executive control in the same light as we view their too frequent dominance of Councils and Council management efforts. The regional Foundations and the New England Development Task Force may, as the Councils, be far from perfect, but they do represent the industry's effort to work together for regional development, and they, as well as other industry people, should be more effectively involved in proposals' review and approval than is presently the case. How this most usefully could be done might well vary from region to region, but regional industry coordination is imperative.

Another reason we are concerned to have more effective industry review is our recognition that NMFS could easily slant the paths of fisheries development to what their overall goals may be, rather than what the regions goals are, from the proposals they select to fund, rather than only evaluating and approving proposals which they have assessed in coordination with the regions' industry people.

We would definately prefer that the legislation not single out specific projects for funding. Our industry priorities change fairly rapidly, and given the lengths of time which would be involved to bring these proposed projects to initial funding, these two subjects may not by then be as urgent as they appear to be now.

Further, various NFF members are already working on gathering fuel use information and even have begun disseminating suggestions for improving fuel efficiencies in various fisheries. Obviously, although some of these suggestions are generally applicable, others are fairly specific to certain fisheries.

As regards voluntary fish quality control, some of our organizations already have programs or are initiating them. These include lower prices for fish less well cared for and education on fish handling for both fishermen and retailers. Your flagging fish quality in HR 7039 will certainly accelerate this already increased concern to monitor fish quality ourselves.

Finally, we have also discussed the additional usefulness to our industry of the fisheries attaches if, instead of being sequestered in embassies, consulates, and missions, they were instead set up in commercial offices. You all have had experience with our diplomatic offices abroad, and while for you access does not require cross-checking by assorted eager military guards, it does for those of us on routine business. Having the attaches, who must be knowlegeable about the industry, easily and routinely available to industry people abroad would, we think, increase their usefulness. And, as one of my members pointed out, they might be safer too!

TITLE II—AMENDMENTS TO THE MERCHANT MARINE ACT OF 1936

Our fishermen are particularly interested that the crossover provision under Sec. 201 be set out to assure that fishermen with Capital Construction Funds be able to combine their separate funds to take fullest advantage of this proposed access to purchasing fishery facilities.

I've already had calls from fishermen or their association representatives in two areas impacted by the recent New England Fish Company bankruptcy asking how quickly the crossover provision could become law, and whether when it did, they could cooperate to purchase and reopen those vitally needed facilities. Other fishermen have also expressed their less specific but equally enthusiastic support for this provision.

As regards the Fisheries Loan Fund, our fishermen are much less enthusiastic. They do agree to the lifting of the moratorium on federal available loan monies. But beyond that, they do have some problems.

First, they are reluctant to see any significantly large amounts of additional government monies go into vessels at this time because many of them are very frustrated by, on the one hand, the growing vessel capability which already exceeds U.S. processing capability in certain fisheries, and, on the other, the constant nattering of NMFS economists that certain fleets are too large and that we must therefore restrict current development—much of which has been and is the basis for our expansion into underutilized fisheries.

They also question the priority proposed for Title XI loan holders, for it seems that many of the vessels with present or anticipated difficulties are not under Title XI. They urge that if additional loan monies were to be available, that in determining who should get them, NMFS use the applicant's performance records, including their financial histories, as a significant part of any awards which might be made.

Given this concern, they obviously agree with your proposed cut off in 1982.

TITLE III—AMENDMENTS TO THE FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Pooff! Fishermen are very enthusiastic about the possibility of an accelerated phase-out of foreign fishing in our Fishery Conservation Zone—especially since many misunderstood the FCMA in 1976 and thought it was going to happen then!

As you know, NFF consistently testified that with the strong oversight you and your colleagues in Congress provide, we thought the FCMA, with the joint venture amendment gave the Executive the tools they needed for the expeditious phasing out of foreign fishing. We now agree with you, that the Executive branch has chosen not to use those tools as throughly as they might have and that therefore we now need to hone these tools more finely.

Our only concern is that percentages may need to be greater or lesser for certain fisheries than those percentages specified in the bill. For that reason we suggest you consider building in greater flexibility in the fishery-by-fishery reductions. We also ask that you address two additional points: first, the growing importance in the Councils' fishery management plans of additional socio-economic data, including consideration of world market conditions; and second, the situation where, if a Council and the Secretary were to disagree on the amount of surplus, that the Council(s) involved, with its Scientific and Statistical Committee(s) and appropriate advisory group(s), would not arbitrarily be overridden.

Some of our members have also suggested that this legislation may provide an opportunity to establish a policy whereby foreign fishing were not to take place unless the United States fishing industry—fishermen and/or processors—received benefits from any nation granted a quota of the total allowable level of foreign fishing. We are very pleased by your proposed amendment to Sec. 201 which would require that the Secretary of State and the Secretary shall consider whether such nations impose tariff barriers or non tariff barriers on the importation of United States fish products.

You recall that on 3 March 1980 NFF submitted a similar criterion and three other criteria we think should become part of Secretarial considerations in TALFF allocations. These were:

The extent to which a foreign nation will assist in U.S. fisheries development through the purchase of fisheries products from U.S. fishermen and processors. We would suggest that this criteria be placed in the same order or priority as the joint venture amendment calls for; that is, first priority to those nations which purchase products from U.S. processors, and second, to those nations which purchase from U.S. fishermen within the fishery conservation zone to process aboard foreign processors operating in the FCZ in cooperation with U.S. fishermen;

The extent to which a foreign nation plans to minimize its proposed fishing operations' potential conflicts with U.S. fishing; and

The extent to which a nation would enter into agreements with U.S. fishing industry interests to transfer technology and expertise.

We are also delighted by your proposal to achieve 100 percent observer coverage. As regards observers and permit fees, we propose the following:

Because the language in Sec. 204(b)(10) is so flexible as regards the Secretary's options in determining fees, we wish to see precluded the possibility that the Secretary might elect to use only a fee of 10 percent of ex-vessel price, a fee which may be inadequate to cover necessary functions. Instead, we suggest that the Executive be charged with the responsibility of determining what foreign fishing fees should be by combining the total costs of enforcement of foreign fishing in the FCZ, including 100 percent observer coverage; research; and administration with a reasonable access privilege fee to be charged all foreign harvesting vessels permitted for a TALFF quota. Any balance of fees available after the enforcement, research, and administrative costs have been deducted would be allocated to uses currently beneficial to the U.S. fishing industry.

To determine how much these fees should be for each nation fishing each fishery the Executive would take a pro-rated share of the total enforcement, research, and administration costs plus appropriate access privileges fees for that fishery.

We very much appreciate the work you gentlemen and your staffs are doing to help us strengthen and build our industry. My members and I look forward to working with you as this legislation goes forward.

Thank you!

STATEMENT OF THE NATIONAL FEDERATION OF FISHERMEN, DECEMBER 10, 1979

Mr. Chairman, gentlemen. I'm Lucy Sloan, Executive Director of the National Federation of Fishermen. NFF is the only national organization of commercial fishermen. Our members fish finfish, crab, shrimp, salmon, albacore tuna, eels, lobster, surf clams, swordfish, black cod, herring, sea bass, shark, and rockfish from Mexico to Alaska and from the Gulf of Maine to the Gulf of Mexico. We represent a majority of the organized commercial fishermen in the United States.

We very much appreciate the interest in fisheries development which the members of this Subcommittee are demonstrating. Many of the concepts for development before you in the different bills are ones which NFF endorses enthusiastically. With the passage of the Fishery Conservation and Management Act, the industry's interest in fisheries development has greatly accelerated. The number of vessels our people on all coasts are building or adapting is an excellent example of this, as is the growing number of fishermen who are moving into species which five years ago we left primarily to the foreigners. Squid, Pacific whiting, black cod, and pollock are significantly among these.

We are especially pleased with the trend, which legislation before you reflects, toward industry involvement in and responsbility for fisheries development in all fisheries for both harvesting and processing sectors. We support the approach which calls for the development of all fisheries through industry use of Saltonstall-Kennedy monies above other approaches which have been suggested for several reasons: among these, first, it allows the industry maximum flexibility; second, it builds on an existing mechanism with a clear-cut source of funding, and therefore we'll lose relatively little, if any, time in broadening the scope of fisheries development; and third, it in no way superimposes others' philosophies, assessments, or techniques for development on the fishing industry.

The approach to cooperative development, of which the New England Development Program was a forerunner, would encourage the industry further to use the opportunities your passage of the Fishery Conservation and Management Act has made available to us. It would mandate reliable cooperative support for projects which the industry might not otherwise venture into as soon, either because institutional barriers would make development impractical at that point, or because the capital necessary had not yet reached criticial mass, for example. And the impetus for many projects would come from the regional or local level—the levels at which truly effective fisheries development projects must have their genesis.

As a result of this mechanism which will involve the industry further in fisheries developent at the local and regional levels I think there may well also be increased interest in, awareness of the fisheries development projects which the National Marine Fisheries Service would undertake and an effort on the part of the industry better to coordinate all fisheries development projects to assure government works with industry in ways which will best achieve the potential we have to develop as we know we can. And your oversight and guidance will also be quite important here.

With each month, it becomes increasingly clear that the world market place is a critical factor in the fullest utilization of all our fisheries. And tariff and non-tariff barriers are one of the serious impediments to the United States' industry's development of our so-called underutilized species. Therefore, increasing the number of fisheries attaches to a minimum of six will, I think, help greatly to decrease the severity of these problems. With the help of the attache's on-the-spot, continuing efforts combined with our own, we would hope to be able to move more effectively in some markets, more rapidly into others in which our products have been greatly restricted.

The proposed extension of the Capital Construction Fund and Title XI funds should also increase the alacrity with which both harvesters and processors move into greater use of non-traditional species. Both rising operating costs and the increased costs of capital are among the factors which seem to have lead many to focus longer than they had hoped or planned almost entirely on traditional species. If the United States industry is to achieve the potential the FCMA provides, we must displace the foreign fishing vessels operating in our fishery conservation zone.

Finally, if technology transfer is to be a part of the fisheries development legislation which this Subcommittee reports, NFF strongly supports the approach to this aspect of development for which the Young bill calls. Short-term, smaller-scale technology transfer is the only kind in which U.S. fishermen would be interested, from which they might benefit.

Thank you, gentlemen, for your continued interest in and support of our industry.

Mr. **Dykstra**. Thank you, Mr. Chairman.

I don't have any prepared remarks, but Lucy has asked me to speak about expansion. I've testified before this committee before. The fleet which I represent is catching butterfish, herring, and squid for overseas markets and a substantial part of our fishing is now done for these markets.

I think that in trying to expand into them, we have found that a number of things that are addressed by this legislation tie in together. I would say that the fees, the phaseout, the joint ventures, and the elimination of trade barriers are all tools that we have to use in conjunction with one another and in combination. I don't think that we can do without any one of these. I think in working them together, we can accomplish quite a bit.

I'd like to speak particularly about the phaseout because everybody talks about when the U S. capacity builds up to a certain point, then we go further, and give the U.S. fisherman more and so on, and I'm afraid that that's an oversimplification because we have already seen that when we start this kind of thing, there is immediately a reaction from the foreigners. Naturally, they don't want to be phased out, they don't want to be pushed out. And so there's almost a knee-jerk reaction to do whatever they can to counter the increasing U.S. fishery.

For instance, we have a situation where the foreigners can fish on the offshore winter grounds, say 60 to 80 miles offshore. That same fish is available to us within sight of the beach in summertime. It's much more economical for us to catch it within sight of the beach, but the foreigners will make a real effort to catch it offshore where it's practically uneconomic for us to catch it. Before it's available to us, that is in the wintertime, if you take a fishing year, they start in the wintertime. It's available to us where it's more economic in the summertime inshore. So, on the grounds, they will try everything possible to make it—to reduce our catch per unit effort and make it less economic for us to fish.

Then, when you get into the market, take a situation for instance where we have 10 percent or less of the harvest of a particular type of fish, and maybe one or two, or even three countries have the major portion of the other 90 percent, and we start nuzzling into whatever market there is, be it our own market domestically, or a third country market, or their markets, and immediately it's to their advantage to try to shut us out of that market by pouring some fish in there. And if they've got 90 percent of the fish and we've got 10 percent, they can overwhelm us in whatever market it is, and lo and behold, it's uneconomic for us to fish, we don't increase our portion of the fishery, and they say, "Well, you fellows didn't increase any, we really don't need to give you any more," and there we are. We're either static or going behind.

Mr. **Breaux**. Jake, could I interrupt you for a second. We have a recorded vote; I'm going to try and catch it, and I will be right back to continue the hearing.

We'll be in recess.

[A short recess was taken.]

Mr. **Wyatt**. Ms. Sloan, if you want to continue, please.

Ms. **Sloan**. Yes, sir. Mr. Dykstra was testifying.

Mr. **Dykstra**. Yes, Mr. Chairman. I guess to sum up what I said, I think that I do favor the phaseout provision, but the details of it, I think, should be worked on a bit.

As part of that, I think part and parcel, we do favor having the tool of joint ventures available should we need it.

We're particularly interested in 100-percent observers. We've had difficulties right from the beginning. Our fishermen have perceived that there have been difficulties, at least, with not enough observer coverage.

I think that the program as it has been administered has not made the status of observers very desirable, and I think that there are a lot of things that could be done to make this program one which would greatly enhance the desirability of that—of being an observer. I think that from what I've seen, everybody said that, "Well, nobody would want to go aboard these foreign vessels, nobody would want that kind of a job, what a terrible job it would be." In our area, it hasn't turned out that way at all. There have been a lot of people anxious to go out on the vessels, but it's the lack of continuity in the job, and the low status of the job, and the way the program has been administered that has been the chief stumbling block.

I think that I could stop there and I'll just answer questions if you have any, sir.

Thank you.

Ms. **Sloan**. Ken?

Mr. **Peterson**. Mr. Chairman, my name is Ken Peterson, and I wish to express the views of the Highliners Association of Seattle, Wash., on H.R. 7039, the American Fisheries Promotion Act.

The Highliners Association is a group of owner operators of some 30 to 40 traveler trawlers that range from about 80 to 295 feet in length. Included in this fleet of vessels is the 160-foot America No. 1, which is the largest and the most modern processor-trawler yet built on the west coast; the 295-foot Arctic trawler, which has just undergone extensive refitting for catching and processing the Alaskan groundfish, as well as the Arctic processor which is 311 feet.

Members of the Highliners Association were in the forefront of those who developed the king and the snow crab fishery; and in turn, they have made major investments in the Pacific Northwest and Alaska fisheries.

Members of the association enthusiastically support the intent of the American Fisheries Promotion Act, which we understand is to improve the opportunity for domestic fishermen to compete with foreign fishermen within our fishery conservation zone. This legislation would be particularly timely because of the combination of adverse factors that are presently causing great difficulties for the U.S. fishing industry.

These factors include the rapid increase with no end in sight of the cost of fuel, extremely high interest rates, and soft markets for fish. The weak market for fish is a national and even worldwide phenomenon which in turn affects all of us. The situation is aggravated by the continuing advantages that foreign fishermen have long enjoyed over the U.S. fishermen in the form of large Government subsidies for construction of vessels, subsidies to shipping, tariff protection, et cetera.

A particularly unfair kind of subsidy provided by the U.S. taxpayer to the foreign fisherman is that they are not required to pay the full share of the cost for research, management, and enforcement that are associated with their fishing operations in our fishery conservation zone.

The Highliners Association particularly supports those sections of H.R. 7039 that requires a foreign fisherman to pay a legitimate and fair share of the cost associated with their operations within the U.S. Fishery Conservation Zone. Gives preferential consideration in the allocation of total allowable level of foreign fishing to those nations which impose no tariff barriers, or the lowest tariff barriers on the importation of U.S. fish products. Our association believes that another consideration should be to give preference to those nations which use their fish caught in the U.S. zone for their own home consumption, as contrasted with those nations which market such fish in the U.S.A. Provides for a full observer program in which a U.S. observer will be stationed aboard each foreign fishing vessel while it is within the U.S. Fishery Conservation Zone. Extends a capital construction fund to fishery facilities for operations on land as well as sea.

As regards point No. 3, we disagree with a statement that was made by an NOA official that the present 20-percent observer coverage is adequate, and that 100 percent coverage would be excessive.

Although NOA officials have frequently stated that they are attempting to maintain a 20-percent observer program, the observer coverage off Alaska is not 20 percent, but instead only amounts to about 8 percent of the vessel days expended over the combined fisheries.

This goes on with the—finally, it seems ironic that the field personnel of the National Marine Fisheries Service state that many management objectives and tools cannot be used because of the inadequacy of the observer program. We believe a strong observer program would be the most cost effective way to obtain the desired degree of surveillance. It would have the added advantage of freeing up the Coast Guard activities for search and rescue missions.

In summary, the Highliners Association favors the passage of H.R. 7039, and commends Congressmen Breaux and Forsythe for developing this proposed legislation. Anything that serves to minimize the impact of rising costs of fuel would be most helpful in maintaining the viability of the domestic fisheries. For this reason, we support fully the use of the S-K funds as a logical focus of regional solutions to the various problems with which we are now dealing, and the advances that we wish to make in the future.

As regards sources of funding, we believe that financing a new fisheries development program and loans for vessels and facilities should be through the appropriations process. Fees assessed foreign fisheries should not be earmarked for fisheries development in loan programs, but instead should be used to offset the costs of the United States for the research, management, enforcement, generated by these fisheries.

That's the end of my statement, sir. If you have any questions, I'm happy to answer them.

Ms. **Sloan**. Next, Mr. Chairman, I'd like to have Joe Easly address some of the issues I outlined, but before I go on, I wanted to say that we have here today as well, Einer Peterson and Jeff Hendricks and Sig Yager from the northwest fleet. Einer and Jeff represent several vessels among them, a combined investment in the neighborhood of $20 million to $25 millin. We had hoped to have more of our people here, but we too are facing certain economic constraints, and so we cut down on the number of witnesses.

Joe?

Mr. **Easly**. I really don't have many comments to make. I don't want to sit here and repeat what everybody else has been saying, Mr. Chairman, so I'll keep it real short.

I basically agree with Jake's analysis of the catch 22 situation. It's very true in the groundfish business. It's an important point. The hue and cry about the joint ventures, I think the joint ventures will be the self-liquidating thing. Members of my organization are the first to fish for a joint venture, and also still are, but I don't know one of them that won't deliver to an American processor if he could get the market.

The basic concepts of the bill we support. We might have a few nitpicking things about specifics or how they should be done, and I'll turn them over to Lucy in the future. We're still going through our own little bureaucracy developing our final positions.

Lucy keeps mentioning a council plan. I'm not sure it's pertinent to this legislation, but there's been a tentative adoption of a groundfish plan on the Pacific Coast that——

With that, I basically came here to answer questions. I didn't bring a prepared statement.

Mr. **Breaux**. Let's start asking some.

I note, Lucy, on the recommendation on the Fisheries Loan Fund that you're reluctant to see any large amounts of additional Government moneys going into vessels at this time.

Is there an answer that your organization can recommend to the potentially disastrous situations that we've heard testimony about?

Ms. **Sloan**. Well, sir, that—remember that I represent a different group of fishermen than the ones from whom you heard that, and we are sympathetic to those. Some of our problems have some similarity, and some of them are different.

It's, I think, that when I address the question of the foreign fishing fee and how that might be derived, and for what purposes it might be used, I concluded any balance of fees available after the enforcement, research, and administrative costs have been deducted would be allocated to uses currently beneficial to the fishing industry.

Our people are reluctant in most cases to see the Fisheries Loan Fund greatly expanded, but we do recognize that in fisheries, not necessarily those which we represent, there are some very serious problems. And it was to that that I was addressing the uses currently beneficial to the fishing industry.

If the uses of the additional fee moneys, including the reasonable access privilege fee, would be agreed upon to be something like the Fisheries Loan Fund extension, then that would be the purpose to which it was put. But because a number of our people do have philosophic problems with the concept of the Fisheries Loan Fund.

That was the reason I did not address in detail.

Mr. **Breaux**. I take it you would recommend that the priority for title XI mortgage guarantee holders be removed?

Ms. **Sloan**. Yes, sir.

Mr. **Breaux**. And be opened up to anyone who would qualify otherwise?

Ms. **Sloan**. Yes, sir.

Mr. **Breaux**. Your suggestion about the in-kind matching contributions by fishermen being emphasized with regard to S–K funds, I don't think we have any problems with at all.

What do you mean when you were saying that you support the proposal that we have with CCF funds, but you want the funds to be able to be used collectively by fishermen?

Ms. **Sloan**. Yes, sir, what we are looking at—and this is something I've asked Dick to address, and we'd like to work closely with you all to insure that this might be possible. We have situations, as you know, the figure repeated about the availability of CCF moneys at this point is something in the neighborhood of $98 million.

After the Nefco (phonetic) bankruptcy, and subsequent closing, I've had, as I said, phone calls from various groups of fishermen saying, "Can we use the crossover provision," and I had to explain that unfortunately at the moment it wasn't law; but what they were asking was, could a group of fishermen—say 10, 15, or 20 fishermen—pool their CCF's, form a fishermen's cooperative and use their combined independent CCF funds to purchase property to set up a cooperative. I gather as the tax code stands at the moment, that would require a great deal of conforming and technical amending; and it is that aspect of it in which we have heard the most interest as regards to the extension of CCF funds. That crossover provision is very appealing to our people, and the one thing technically that is not clear to us is whether our people would be able to combine CCF funds to go together to establish a fishermen's cooperative.

Mr. **Breaux**. You also made the suggestion that you would like to give the foundations more of a role in the Saltonstall-Kennedy process.

Would you elaborate, please, what you really mean by that?

Ms. **Sloan**. Well, there is a suggestion that I've heard from various people on the west coast and Alaska that the development foundation provide some sort of overall regional development plan, how they would go about this might include for instance holding hearings in terms of how the regional development should be balanced, what kinds of proposals were germaine to it.

I've also had some discussions with members of your staff, and Jake has some ideas on that subject as well, because the problem of getting the foundations and the task force involved to a much greater extent in the review of proposals is critical. We're very much afraid that the National Marine Fisheries Service will decide that they know what's better than we do, what fishery development should look like, and they will slant the development in that direction.

Jake, would you——

Mr. **Breaux**. We're told on that point that the foundations are really already involved very directly in the type of proposals that are being funded up through the channels, is that not correct?

Ms. **Sloan**. It is true, but the thing that worries us is that once they get out of the foundation, NMFS has the final say. Not only on what package will be put forth, because——

Mr. **Breaux**. Wouldn't that always be true? I mean, no matter what we do, NMFS somewhere is going to have to make the decision on which ones are approved?

Ms. **Sloan**. That's true, but there are other ways of building industry review better into the process throughout the review period than is the case; because you can put together a comprehensive regional development program, and then have—NMFS is very keen on consumer development his season, and what we're afraid of, frankly, is proconsumer development proposals and one gear proposal. That kind of imbalance——

Mr. **Breaux**. Are those consumer development programs to teach people how to eat fish? I think that's something that is a good idea.

Ms. **Sloan**. But it may be that we don't have to teach them quite to the degree, because if we teach them as we have had the problem with some NMFS programs, this was one in New England that I recall where they taught people like mad how to deal with a particular species, and then we found out that we couldn't produce it fast enough to keep up with the demand that the consumer education had created.

Mr. **Breaux**. Of course, that's a nice problem to have.

Ms. **Sloan**. It's an interesting problem to have, but we'd like not to get the imbalance.

Mr. **Breaux**. I know many people who would love to have that problem.

Ms. **Sloan**. Particularly as Jake points out. The Canadians have lots of what we are not catching.

Mr. **Breaux**. I appreciate what you are saying, but there is no way we are going to be able to develop a system whereby the people proposing the programs will be ruling on who will receive the money for the programs.

Ms. **Sloan**. No, sir. That is not what we are saying, but rather in overall, and not just as we have in the system with the FPP's where you have the council and the secretary. Obviously, the executive branch is going to have the final say. But what we have been concerned about is the imbalance once it leaves the region. Jake?

Mr. **Dykstra**. Yes, Mr. Chairman. Maybe a little history would be appropriate. In the program we have in New England, when it was set up it was set up so that industry people were called, in quotes, "a Board of Directors." They passed on projects passed in to them. They took a look at the project. They could initiate projects themselves, and they had a staff of new people who administered the project after they were accepted.

Now, we had complete control of the project, excepting for NMFS having the final say on such things they were duplication programs from other areas, or whether indeed they were violating some Government rules, something that could not be done with that find of function. So they had the last say as to whether the projects fit into the overall scheme of things, and were not in violation of any laws or regulations. But otherwise, we had complete control of the project.

The way the thing is set up now is that in the first place the foundations of the New England task force are not the sole originators of projects. Most of the projects are originated outside of their programs, and there is a so-called review process in which some council members take a look at some very abbreviated versions of these projects. But to me, that is just a sham in order to be able to say that they have industry input.

I am supposed to be one of the reviewers, and I can tell you, I cannot do any kind of a job on reviewing them that way. So what we are proposing is that we go back to the idea that the projects do originate through the foundations, or the task force, or through a regional group, that they be the ones that have the first say, that projects come to them first, they make up a package, and then that Government input into it be as it used to be, that they simply pass on it for its conformity.

Mr. **Breaux**. I basically agree with your premise and the goal that you are all trying to reach on that. I mean that industry should propose the projects and come up with ideas and submit them. Somebody in the Government is going to have to make a final cut, however, on the ones approved and rejected.

I was initially very concerned about the consumer program that I was seeing being submitted. But again, if the consumer programs are teaching people how to eat fish, and consume fish, these are good concepts, as well.

I would appreciate if you could suggest some language that would give us guidance on exactly the goal that you are trying to achieve. I think it would be very helpful.

Ms. **Sloan**. Thank you, Mr. Chairman. We would be glad to do that.

Mr. **Breaux**. Bearing in mind, we have a markup scheduled for next Wednesday.

Okay, any other suggestions that you might make with regard to the phaseout of the foreign fishing would be helpful. I know you expressed a recommendation that more flexibility be provided.

Mr. **Early**. I think there are differences from one area to another in not only the amount of fishing, but how it is conducted in the infrastructure that is developed in the region.

Mr. **Breaux**. You have heard NFI's suggested proposal they made. Do you have a comment on that?

Mr. **Early**. The way they explained it, it sounded a little different from what I read originally. Maybe it reads different now, I do not know. But it did not sound that bad. I could live with the way they were explaining it this morning.

Mr. **Breaux**. We want to work with your group, Lucy. I do not have additional questions. I think you have made some helpful suggestions. I think we are in agreement on a common goal.

I particularly noted your second paragraph of your statement about the fishermen whose first reaction is that they had fallen asleep and awakened up in Fishermen's Heaven. That is probably a generous comment about the legislation.

Mr. Forsythe, any questions?

Mr. **Forsythe**. Yes, I have one.

Witnesses testified yesterday recommending a phaseout of foreign fishing including foreign processing. I would appreciate your comments respecting one, the impact of joint ventures on the industry, and, two, what the effect would be of a phaseout on joint ventures.

Ms. **Sloan**. I would like to start, and the others to comment on it. As Joe said, there are not any fishermen fishing for the joint ventures who would not prefer to be delivering to U.S. processors.

Many of my objections have not addressed this question, because they thought we had settled it in the joint venture. We are very concerned, however, that market conditions on the west coast mean that although the joint venture may not be the market of choice, it is a market. And we are in very serious need of markets.

The processors talked 3 years ago about all the things we were going to do. I know, almost as well as they do, the litany of reasons why they have not done them. I am not unsympathetic to it, but I am not sympathetic to denying my people alternatives, when they themselves are not providing them.

I think Joe is representing FMA Eureka, and Ken with his persons from Marine Resources Corp. up North, and his proposal to do this summer would give you some indication of the value there.

In addition, Jake may want to elaborate. There has been some discussion of joint ventures on the east coast, and some east coast members are also interested in considering it, because they regard it as the way to get a certain unutilized species.

Mr. **Peterson**. Well, the joint venture that we have experienced with the Soviets has been a very, very interesting one, and it certainly has not been productive money-wise for the Americans, No. 1, or others participating in the program. But what it has been, it has been an eye opener as far as educating us to the type of fish, the quantities, what we can look forward to in the future.

With this in mind, for the Americans, No. 1, as well as the other catcher processors that are just now getting started, I firmly believe that in a very, very short period of time these high seas catcher processors are going to be able to displace a good portion of the fish that some of the other gentlemen were talking about a few minutes ago, the Alaska pollock, and the like.

I have found some very positive markets for this product within our own country. It is not going to be very long before we will not need the joint ventures at all, we are going to be able to handle everything ourselves.

Mr. **Early**. I agree with Ken. I think that joint ventures are going to be self-liquidating. It is just a matter of how long they will last. I do not think you need to mandate or legislate a phaseout of them. They are just a tool being used in the interim is the way we see it.

We have 15 boats. We have another four boats up in the Bering Sea fishing for sole. These are joint ventures, and there are some other joint ventures going up in Alaska with the Koreans. All in all, it is a considerable number of quite expensive boats built to pursue the underutilized species, basically, and to get into this business. They are all gaining experience, and more getting involved all the time.

We have one shoreside processor who is going to process hake fish this year, and has two boats. He is paying 8 cents a pound, and most of the guys would rather fish for the 8 cents than the 6 cents, and are going to get into the joint venture. So he gets orders for the products. So we think it is just a matter of time before the joint ventures are gone. We think it is a tool to use in the meantime, and would hate to see it chopped off for no good reason.

Mr. **Forsythe**. You say it will be gone. Then specifically what is your attitude as to a phaseout?

Mr. **Early**. I think it is going to happen as the natural course of events. I could not tell you what the natural course is going to be, or what the phaseout should be. I just have no way I could give you a good answer on that. It depends partly on what the economy does, and a lot of variables.

Mr. **Forsythe**. I gather there is not much enthusiasm for a planned phaseout. You think the natural way is the way it should go. Is that correct?

Mr. **Early**. Well, I am not sure. I do not see where the joint ventures, or what they are catching, are hurting the American processors. And the American processor has access to the thing, No. 1. But it is a choice of letting the foreigners catch it, or others catch it and sell it to them, and I would rather sell it to them.

Mr. **Forsythe**. Jake, do you have any comments?

Mr. **Dykstra**. In this context, Mr. Forsythe, here with this panel, I think the only appropriate thing I can say is I think what Joe has said is basically where everybody is coming from, and that is that the law clearly does provide a priority, and that priority will in time effectively eliminate joint ventures.

Everybody recognizes that they are an interim tool, interim device. I do not think it would be appropriate or wise, however, to attempt to mandate a statutory phaseout of that kind of activity, because nobody can predict, and nobody knows how domestic capacity will increase, or by what ratio, or at what time. It is really apples and oranges, I think, to try to compare a phaseout of foreign fishing with the kind of phaseout we all envision that will occur with respect to joint ventures. They simply are not equitable propositions.

Fundamentally, we are dealing with U.S. harvesting when talking about joint ventures, as opposed to foreign. I think I agree with what has been said, particularly the way Dick put it, that I do not think that it is necessary to legislate a mandate, compulsory phaseout of joint ventures, and is not desirable.

I think that it has been said that they will eliminate themselves in most cases, but the tool that we would wish to continue to have available to us.

I would like to emphasize the differences. We have not ourselves entered into joint ventures, although we have many people talking to us about it. But we have a different situation, I think, on the east coast, and off the coast of New Jersey as well as off of New England, where I am in, that the type of fish that we might want to fish on in a joint venture is probably quite different from what is being talked about on the west coast, in that they are pollock fish, herring, and mackerel that have big gear classes, and practically disappear from the sea completely.

You have to be able to harvest these classes when they along. And we have already talked with a processor ashore about the possibility of a three-way arrangement so that the delivery to vessels offshore and the delivery to a plant would be coordinated, and the vessels would be delivering to both at the same time, and everybody would try to live together.

So if not as economic to deliver to shore, you try to even the whole thing out by having delivery to a vessel offshore. I do not see it as an either or, I think, particularly in our case, where we have these great ups and downs in the availability of fish, that having some kind of a joint venture offshore may be perfectly legitimate and viable within the range of a plant, and still have the processor ashore be a good part of it.

Mr. **Forsythe**. It occurs to me that our discussion about the quality, as far as entering foreign markets, might also be a parallel question in this operation. You do through this method have closer delivery to a processor at sea, and that does enable a better quality of product ultimately.

Mr. **Dykstra**. It may indeed allow a better quality. But it also may be true that the economic viability will be greater offshore. For instance, if we have to catch the fish, take them in to shore, unload them into a plant, the plant has to package them, and put them in the freezer, and take them to a maritime freezer somewhere and load them on a vessel, this may be so much handling of a product that starts out to 3 to 10 cents a pound to the vessel that the handling would make it uneconomic.

Whereas delivering to a vessel offshore might be economic. As I said, there might be some market that would be higher priced, but I might have to lay off larger quantities to a vessel offshore.

Mr. **Forsythe**. In essence, the economics of the game are going to determine what happens?

Ms. **Sloan**. I think as regards that point, one that was made several times in the joint venture, and we have to make it again, is that I submit, in many cases we are not looking at the issue about joint ventures, foreign flag or not. It is not a question of flags, but a question of the new way of approaching fisheries. It is a question of floaters versus shoreside facilities for certain fisheries.

I think that the joint venture represents a tool we can use to learn how to develop those fisheries. But that is part of what Ken was talking about when he was talking about it, and it has been a learning experience. It is a tool to use.

I think this is perhaps a more basic issue, and it is an issue that keeps getting obscured.

Mr. **Forsythe**. Thank you.

Thank you very much, Mr. Chairman.

Mr. **Breaux**. Thank you.

There is also the option of not addressing this. I know the gentleman from New Jersey realizes this. Some of the other panelists, I know, will probably not recommend that course of action.

Mr. Hughes?

Mr. **Hughes**. Thank you, Mr. Chairman.

One of the panel members observed that some 3.6 billion pounds of fish now taken in low value products, and that the bulk of it must be marketed overseas. And that rapidly removing foreign access could well shut off indefinitely the markets for this product.

Do you agree with that?

Ms. **Sloan**. I think I was trying to address that when I said that although months ago it might have been a circumstance where they could say, well, if you are not going to deliver the deal we like, we are going to take our marbles and go home. The availability of marbles might not be as good now as it was 6 months ago.

I think this is a game, a balancing act, what you will. It is a situation where do we calculate by accelerating the phaseout of foreign fishing, cutting ourselves off from the market, or do we calculate that we can with flexibility phase out fisheries more rapidly?

An optimum yield determination based, not on numbers, but rather the amount of fish you can catch, is a step in the direction of looking at optimum yield, as the law strictly defines it. That is to say, using the maximum sustainable yield as modified by logical and socioeconomic factors.

What we are doing is trying to balance the question of if we accelerate and phase out a foreign fishing, which we are very interested in doing with certain kinds of flexibility, then are we depriving ourselves of markets? Obviously, we do not think so.

Mr. **Hughes**. What concerns me about the statement is what is implicit in the assumption that we cannot compete with the foreign market.

Ms. **Sloan**. I think that is something, and I would like to have the others address——

Mr. **Hughes**. I would like you to address that issue.

Ms. **Sloan**. What I was talking about with Mr. Forsythe, when I said the issue is not one of whether the joint venture is a proposition of foreign influx, but whether we are not in terms of competition in the world marketplace for product. The processors coming on line are a reflection that we can compete. I think you heard Ken say he has found markets in this country where certainly the quality is as high for the marketplace in this country as anywhere in the world. And we are looking to be able to produce on an expanding basis those kinds of quality products for market.

So I think we can compete. I think one of the things we want to do is insure that while we are doing it, we have access to a wide range of possible markets, not only traditional ones but the new ones. The new ones. I think we can compete.

Mr. **Hughes**. I look upon a joint venture as just a mechanism to get into a market. Whether you are talking about joint ventures or other types of market penetration, the basic question which gives me some concern is—and it is implicit in the statement—that the assumption is that we cannot compete in some of these markets and we are going to lose those foreign markets if we throw out some foreign fleet. I find that difficult to believe, we cannot be competitive.

Mr. **Peterson**. I firmly agree with you, Mr. Hughes. And I do not agree with that statement myself at all.

In our own country, the people that I have talked to, they have simply asked for an ocean caught, ocean processed product with a guaranteed supply. In other words, if we can catch it, they will take it. And they will take it at prices I believe we can live with today. And we do not know this for a fact, but putting all the numbers together, at this time it looks positive to me.

I would like to make one other comment which I do not think anybody has addressed. It is regarding the optimum yield.

We feel this tends to be somewhat counterproductive. The reason for this is if you are going to have optimum yield for fishing, why, then, you do not have a reserve of fish to build on itself. Total utilization is, I guess, what some of the foreign fishery executives have used. But eliminating the total utilization, what we should have is something that takes the edge off allowing the stocks to rebuild themselves so that in a year or so down the line we can be increasingly productive with the least amount of fuel expended to catch the product. In other words, you make a tow for an hour, you deliver 40 or 50,000 pounds of pollock if it has been allowed to build upon itself. Whereas you make a tow for an hour and you only deliver 10,000 pounds of pollock, obviously you can see you are working for 1 hour and one tow would be more productive if you allow the fisheries to build upon themselves. In other words, keep a little reserve.

Mr. **Hughes**. Thank you, Mr. Chairman.

Mr. **Breaux**. The entire question of joint ventures is almost as basic as the whole issue of 200—mile fishing limit. We could spend days and weeks in trying to come up with something fair to the U.S. processor and fair to U.S. fishing industry. I am not sure we have the time to really get into addressing the solutions to the particular problems at this point in time. We tried it once, and I am not sure we had the final answer.

I thank this panel very much for appearing. You have made helpful suggestions and we want to continue working with you. I would appreciate some of those things we asked for, and come back to us with them as soon as you can. We would need them for markup, of course.

We would like to welcome the next panel, the panel of processors.

Mr. Lawrence Brodie, counsel, Icicle Seafoods, and Mr. Edward Furia, consultant, Icicle Seafoods.

Gentlemen, we welcome you and are pleased to receive your testimony. We would also ask that since your testimony has been submitted, you would summarize it.

STATEMENTS OF PANEL-PROCESSORS CONSISTING OF LAWRENCE BRODIE, COUNSEL, ICICLE SEAFOODS, INC.; AND EDWARD FURIA, CONSULTANT, ICICLE SEAFOODS, INC.

Mr. FURIA. Thank you, Mr. Chairman, members of the committee, ladies and gentlemen.

We will summarize our testimony; it is rather lengthy and has a substantial number of attachments. We would request that the committee make our entire submission a part of the record, however.

Mr. BREAUX. Without objection, the entire statement will be part of our official record.

[The following was received for the record.]

PREPARED STATEMENT BY EDWARD W. FURIA, ESQ., AND LAWRENCE P. BRODIE, SPECIAL COUNSEL, ON BEHALF OF ICICLE SEAFOODS, INC.

INTRODUCTION

Icicle Seafoods is an Alaskan corporation 80 percent of the stock of which is held by Alaskans with most of the remaining stock held by Seattle employees of the company. Approximately 50 percent of the stock is held by fishermen with the remainder held by employees, retired employees, and fishermen. All the directors and officers of the company are United States citizens and there are no arrangements or understandings through which the control of the company is exercised by anyone other than the officers and directors. However Icicle Seafoods has borrowed funds from foreign sources to finance two barges to process Alaskan bottom fish as well as species such as salmon, crab, and herring. Each barge is approximately 265 x 55 feet, can employ 140 people, and has a three-million-pound frozen storage capacity and together represents over a $15 million investment by Icicle in the United States fishing industry.

Icicle Seafoods supports H.R. 7039 and commends Chairman Breaux and the other members of the Committee for providing the industry with the first comprehensive piece of legislation which, if enacted would do much to create the jobs, increase productivity, and assist our failing balance of trade by aiding the United States fishing industry.

The goals mentioned by Chairman Breaux when H.R. 7039 was introduced of 40,000 jobs, more than $1 billion added to the economy, and reduction of the $2.7 billion trade deficit in fish and fish products can be achieved only if the United States processing industry totally processes all the fish that will be harvested by United States fishermen. If foreign vessels and companies process such fish the goals this legislation seeks to achieve will not be reached and the number of jobs and expected increases in productivity will be substantially less than what is being sought.

Icicle Seafoods believes that at least two modifications to the bill are essential if the legislation is to achieve its stated goals. The modifications would merely treat the United States processing industry with the same dignity as the United States harvesting industry. First, Icicle believes that section 302 of the Bill should be expanded to add fees on foreign processing operations in a manner similar to the manner in which the Bill treats foreign harvesting operations. Second, that section 301 of the bill should be expanded to phase out foreign processing in a manner similar to the phase-out of foreign fishing. We will address these two proposals in greater detail later.

SUMMARY OF POINTS

Modify section 302 to require fees on foreign processing operations.

Modify section 301 to phase out foreign processing as well as harvesting operations.

Make phase-out of foreign harvesting and processing absolute—unable to be overriden by NMFS or the Secretaries of Commerce or State.

Establish loan program for entire industry not just for obligors under Title XI.

Amend section 201 to permit deposits into a capital construction fund from the sale of fish and fish products and income that relates to taxable year 1979.

Make sure that section 301 concerning nontariff barriers covers the issuance of import licenses to foreign organizations that have no interest in importing United States industry products.

It is up to the Congress to decide whether it wants a United States fish processing industry.

NECESSITY OF LEGISLATION

Failure of the National Marine Fisheries Service to use existing authority appropriately

Perhaps the best evidence of why the legislation is necessary is the fact that the nation's balance of trade in fish and fish products continues to rise. The figures for 1979 show that $3.8 billion worth of fish and fish products were imported into the United States and the net deficit for fish and fish products was $2.7 billion. Imports increased 24 percent in value in 1979 over 1978. While exports did increase, they were more than offset by this increase in imports.

This legislation is necessary in large part because of the failure of the National Marine Fisheries Service ("NMFS") to use the authority provided to it under FCMA and the 1978 amendments to that Act, Public Law 95-354, the so-called "Processor Preference Amendment." We are all faimilar with the reversals of policy and direction that NMFS, the National Oceanic and Atmospheric Administration and the Department of Commerce took with respect to interpretations of the FCMA which in the end effectively excluded the processing industry from the provisions of the FCMA and caused Congress to have to clarify its intent to protect the United States processing industry from unfair foreign competition. On that occasion, Congress recognized that the significant benefits of increased jobs, positive effects on balance of trade, coastal community development, and increased state, local, and federal revenues would occur if the Processor Preference were enacted.

On that occasion the Committee stated: The key point is that virtually none of these benefits will flow to the American economy and the American consumer if foreign processing vessels operating within the FCZ receive U.S. harvested fish. H. Rept. No. 95-1334, 95th Cong. 2d. Sess. 6 (1978)

In spite of the clarity of the Procedure Preference Amendment, the clear legislative history describing its intent, and the well-documented beneficial results that could be achieved for the Nation if it were properly implemented, NMFS has failed to pursue the goals sought by that legislation.

On October 20, 1978, an interpretation of the Processor Preference Amendment was published by NMFS that was totally inconsistent with the law. Essentially that interpretation was that if vessels of the United States could harvest 10,000 MT of fish and United States fish vessels and processors had the capacity and intent to process 6,000 MT of that fish, a permit could nevertheless be issued to foreign processing vessels to process the full 10,000 MT of United States harvested fish. MNFS engaged in the most audacious use of new math that probably has ever been attempted, 10,000 −6,000 = 10,000. After considerable effort and expense the United States processing industry was able to convince NMFS that 10,000 −6,000 = 4,000 and on February 9, 1979, the correct interpretation of this aspect of the Processor Preference Amendment was published in the Federal Register.

After having NMFS properly interpret the Processor Preference Amendment in this respect, it was hoped that the provisions of that Amendment would be properly implemented. They were not and in order to protect the preferences granted to them Icicle Seafoods along with other processors and a fishermen's association filed suit in the United States District Court for the District of Columbia on May 1, 1979 to seek an injunction to prohibit NMFS from granting a permit to a Soviet Union vessel to process United States harvested Black Cod when the United States processing industry had more than adequate capacity and the full intent to process all such fish. The case was settled and under the terms of a court order NMFS will be unable to issue foreign processing permits for fish which are not surplus to the needs of United States fish processors in the manner in which they did for the 1979 season.

However NMFS has continued to fail to implement the FCMA as it has been amended and the processing industry to date has not received the protection from unfair foreign operations necessary if it is to survive and increase its capacity. The current example of this concerns the failure of NMFS to implement a decision of the North Pacific Fishery Management Council (the "Council") to close a certain small area to foreign factory ship operations.

On December 7, 1979, the applications of the Soviet Union for certain of its vessels to receive United States harvested fish were received by the Council from the Department of State. The Council had 45 days under the FCMA to review the applications and send its recommendation to NMFS for implementation. On January 4, 1980, notice of the applications was published by the Department of State in the Federal Register. Under the Court order mentioned above and dated January 3, 1980, the permits for the Soviet Union vessels were not to be issued for at least 14 days in which period the public was to be given "adequate opportunity to comment on the applications." The Council first considered the applications at its regularly scheduled meeting but was unable to reach a final decision before the meeting closed. By letter dated December 19, 1979, the Council informed NMFS that it approved of the applications but that it would request certain conditions be placed on the permits to protect the Akutan Island-based operation of Icicle Seafoods and that it would inform NMFS of the specific conditions to be placed on the permit after the Council reconvened in January to continue consideration of the conditions. The supplemental recommendation would have been available to NMFS well within the 45-day period provided by the FCMA and the 14-day period required by the court order.

On January 4, 1980, the President announced that fishing privileges of the Soviet Union in the United States 200-mile zone were to be curtailed. On January 8, 1980, NMFS issued the permits to the Soviet Union without waiting for the full and complete recommendation of the Council and without taking into consideration any public comments that were being made within the 14-day period. Nonetheless, the Council continued its meeting and on January 10, 1980, voted unanimously to place area restrictions on the proposed Soviet Union operation to protect the start-up operation of Icicle Seafoods and to reduce halibut mortality and harvesting pressures on localized fish stocks. Essentially, NMFS avoided the law and an order of the court and rushed through these permits without the recommended condition that the Soviet Union vessels be prohibited from operating within 12 miles of the Icicle operation. Instead NMFS issued the permits, refused to place the condition on the permits, and triggered lengthy administrative proceedings on the theory that the permits were outstanding when it received the recommendation and it would be unfair to modify them without providing the Soviet Union an opportunity to object. This occurred notwithstanding the fact that representatives of the Soviet Union had appeared on two separate occasions before the Council prior to the Council's decision and recommendation. As a result, Icicle and the Soviet vessels operated within four miles of each other and conducted harvesting operations on the same stock of fish. By failing to wait two days NMFS effectively allowed the Soviet Union to set up its operations on Icicle's doorstep.

Icicle paid 8 cents per pound for Pacific Cod whereas the Soviet Union operation paid 9 cents. Icicle arranged to sell its finished product to Joint Trawlers Ltd. of Gloucester, Massachusetts who in turn sold the product in Europe. At the time Icicle's shipment was being made, the Soviet Union operation also made a delivery to the Dutch cargo vessel making the shipment. Icicle received 32 cents per pound for its processed Cod whereas it needed 37 cents per pound to break even. Thus what resulted was two groups of United States fishermen harvesting the same stock of fish within the 200-mile zone but with one group making deliveries to the Icicle United States operation and the other to the Soviet Union operation. Then each operation sold their processed product to the same end market. Icicle lost approximately $300,000 from these operations. While it is uncertain what the economic return was to the Soviet Union, it is certain that the 200 to 300 citizens of the Soviet Union working in such operation did not contribute to our way of life by paying taxes or complying with other laws regarding health and safety and minimum wages. It is also certain that the Soviet Union operation does not have to provide a profit-and-loss statement to shareholders or, for that matter, to the Soviet Union. It cannot be expected that the United States fish processing industry should be able to meet this type of unfair foreign competition for those fish found in our 200-mile zone. What is perplexing is that NMFS would not even impose the very small 12-mile area restriction. Attached is the Icicle submission to NMFS that demonstrates the legality of the area restriction and points out that the greater part of the Pacific Cod resource exists outside the proposed closed area. To date, NMFS has failed to impose the restriction.

While the above information is reason by itself for the Congress to enact detailed legislation which cannot be avoided by NMFS, there is yet another example worth mentioning. Essentially the FCMA and the Processor Preference Amendment were legislative attempts to control those fisheries resources found within 200 miles of the United States. Then through the control of the supply of fish it was expected that domestic and foreign markets would become available to the United States fishing industry. This concept is essentially the cornerstone for commercial development under FCMA. When NMFS was asked to promulgate regulations using existing authority in the law to curtail those efforts of foreign interests which prevented the preference system from being effective and set out the standards under which NMFS would use various tools under the FCMA to prevent these abuses, such as reducing the optimum yield due to economic reasons, and hence the total allowable level of foreign fishing or withholding allocations due to the maintenance of trade barriers, NMFS responded that they saw no additional benefits from taking such actions and denied the request. A copy of the denial is attached. The point is that absent an unequivocable law regarding the phase-out of foreign harvesting and processing operations, it appears that NMFS will continue to act as it has in the past and prevent the preferences granted under existing law from being meaningful.

The New England Fish Co. failure.

On May 2, 1980, the New England Fish Company filed for bankruptcy. Although the company was a competitor of Icicle's, its failure was not welcomed and certainly was not in the best interest of the industry or the Nation. While it is too early to tell exactly why the company failed, it is certain that it was dependent upon foreign markets for a substantial portion of its products, that it did not have the financial strength to survive a softening of demand in those markets or the high interest cost associated with maintaining a large inventory of product. (See attached copy of article in the May 19, 1980, issue of Business Week.) The Nation has lost the largest United States fish processor on the West Coast during a period when the industry was to be expanding. On the other hand, instead of being phased out as contemplated under the Processor Preference Amendment, the Soviet Union operation, according to Wally Pereyra, General Manager of Marine Resources, may become the largest fish processor on the West Coast in 1980. (See attached copy article in the April issue of Pacific Fishing.)

On December 10, 1979, the New England Fish Company testified before this committee and urged the immediate expansion of the capital construction fund and Title XI obligation guarantee programs in order that they might be available to assist in the financing of shoreside facilities. While it is too late for that company, those surviving United States fish processors now echo that plea. Sections 201 and 211 of H.R. 7039 are extremely important and should be enacted into law as soon as possible.

Failure to control fishery resources effectively

The scheme under the present law is to essentially control the Nation's 200-mile fishery resources so completely that the only access to the resource by foreign interests will be through United States corporations. Those foreign nations that need a supply of fishery products but which maintain trade barriers that prevent United States corporations from exporting products to these nations do so because they are aware that under current law the United States does not effectively control the resource. So long as foreign nations are supported in this belief by the actions of NMFS and the control of our resources is apparent but not real, foreign harvesting and processing will be perpetuated in our 200-mile zone. Would the United States maintain trade barriers to imported oil if it had no other source for all the oil it needed?

Japanese and Korean trade barriers remain because those nations are all too well aware of the fact that the United States does not yet really assert control of its 200-mile fishery resources. Only when this changes and the change is perceived by the foreign interests will there be meaningful commercial development, as only then will foreign interests be willing to negotiate on an arms length basis for our fishery products. Current private negotiations with respect to such matters are hopelessly one-sided; United States corporations are essentially playing poker with foreign interests who know that our Department of State will constantly replenish their stack of chips.

Since the 1960's the United States share of world exports has dropped from 18 to 12 percent. This decline has diminished the strength of the economic position of the United States relative to the rest of the world, particularly to those nations which have increased their share of world trade, such as Japan, Korea, Italy, Germany, Taiwan, and Hong Kong. Essentially while the United States has a smaller share of the world economy, it is not using its fishery resources in a manner which uses these renewable resources for the benefit of the Nation. World production of fish has leveled off since 1976 which has caused an 11 percent decrease in per capita supplies due to population increases. While fish are renewable, the productive capability of the oceans generally cannot be expanded much beyond the present level of 65-70 million tons annually. Therefore, it should be expected that the per capita demand for fish will continue to rise and the high quality portein available from fish should be in great demand. Even the NMFS estimates that domestic demand for seafood will increase by 80 percent by the year 2000. The issue today is whether the United States industy will supply that demand or whether it will be supplied by harvesting or processing operations of other nations.

H.R. 7039 is a way to solidify the scheme originally set out in the FCMA and the Processor Preference Amendment regarding the control of our fish resources. It is an attempt to let foreign nations, investors and all other know that the United

States will control those renewable resources found in its 200-mile zone. However, the legislation is substantially weakened by the fact that NMFS can override the phase-out timetable by finding a substantial surplus and continue to allow foreign harvesting and processing operations to take place in the zone. If past practice is any guide, we believe that NMFS and the Department of State will continue to do as they always have: viz, give our fish away. Foreign interests that receive allocations from our zone know this as well as anyone. If the Bill is passed in its present form, we believe foreign interests will continue to bargain with the State Department for its fish rather than with United States corporations or fishermen.

These problems can be overcome by making the foreign fleet phase-out absolute rather than subject to Congressional action for its effectiveness. Only when the United States industry's control over the resource is on a fixed schedule will foreign interests engage in truly meaningful negotiations with United States industry and only then will trade barriers fall and commercial development occur. If an absolute schedule were to be established by this Bill it could always be rolled back by Congress in subsequent legislation. It would be entirely appropriate to shift the burden for future Congressional action from the United States industry to either the Executive Branch or foreign nations rather than passing a piece of legislation that is only partially effective and perhaps have the United States fishing industry lobbying for further legislation two years from now after there would have been little change in our fisheries. It would appear that there is no risk in enacting an absolute phase-out at this time and as Mr. Breaux stated on the first day of these hearings, Mexico phased out the United States shrimp fleet without regard to whether there was a surplus available for foreign fleets and our State Department has accepted its authority to do so. We would therefore have to assume that our State Department considers this approach a valid one under international law.

U.S. INDUSTRY CAN DO THE JOB

Given effective control of the fishery resources found in our 200-mile zone and provided that the financial benefits of maintaining a capital construction fund and Title XI assisted financings are made available to the entire United States fishing industry, the industry will be able to compete with respect to those species of fish that are traded in world markets.

While Icicle believes this to be the case, it must be recognized that actions by foreign governments could attempt to keep their vessels harvesting and processing those fish found in our 200-mile zone. For example, the Department of State testified before this Committee on March 3, 1980, that the Soviet Union was not engaging in joint venture operations for economic reasons but rather for political reasons. Under such circumstances it should be expected that the Soviet Union may continue to undercut prices in an effort to keep its fleets in our ports and to retain a certain level of control over the supply of the world's fishery resources. Similarly, Korea has essentially not raised its fish block prices for two years even though fuel prices have sky-rocketed during the same period of time and Korean blocks made from Alaskan Pollock are shipped to Korea for final processing before being shipped back to the East Coast of the United States for conversion into consumer products—a very fuel intensive operation. It must also be recognized that certain nations have little fishery resources of their own and will go to great lenghts to protect a continued source of supply of fish for their people.

The Icicle bottomfish operation of this past winter should lay to rest the concerns that technology transfer assistance and labor training programs are needed. Technology and labor are available. What has not been available has been capital and access to markets, two matters which H.R. 7039 addresses and which will be discussed in greater detail later.

TWO ESSENTIAL MODIFICATIONS

Fees on foreign processing operations—Section 302

It appears that as presently drafted H.R. 7039 would only establish a new fee with respect to foreign harvesting operations and not with respect to foreign processing operations being conducted with foreign factory ships in the Nation's 200-mile zone. There is no reason why a similar fee should not be placed on foreign processing operations that take place in our 200-mile zone as well.

Foreign processing operations in our 200-mile zone are no more desirable than foreign harvesting operations except to the extent they temporarily aid United States fishermen who have no other market. Even then if foreign vessels are operating in our 200-mile zone it would only be due to the fact that the United States processing industry had not fully developed. In that case, it would be entirely appropriate to continue to collect fees from foreign interests for Saltonstall-Kennedy programs and continued research and development funding for the processing industry. Absent this modification, fees will only be collected until foreign harvesting operations will have been phased out; Saltonstall-Kennedy funds might not be abailable when the United States processing industry might be in need of the program. Foreign harvesting and processing operations cannot be distinguished in this context as neither contribute to our control over the fisheries or maximize the benefits that can be derived by the Nation from fully utilizing those renewable resources found in our 200-mile zone.

While the funds collected from this new fee are to be made available to the United States fishing industry through the Saltonstall-Kennedy program and the loan fund established by the Fish and Wildlife Act of 1956, perhaps a greater value of the fee could be to help equalize certain economic differences between domestic and foreign harvesting operations. For example, with respect to Korean harvested Alaskan Pollock, the ex vessel price of which is approximately 6 cents per pound, such fish would cost the Koreans an additional 0.6 cents per pound and the cost of the fish in the final product when it is delivered to the East Coast of the United States is raised to approximately 10 cents per pound due to processing yields; that is, approximately 40 .percent of the fish weight is lost during processing. The average price for Korean Pollock blocks imported into the United States in 1979 was 61 cents per pound. The 10 percent new fee would only raise the final price of this product by approximately one cent per pound, to 62 cents. This is hardly an amount that would equalize the cost differences between domestic and Korean-subsidized fishing operations or an amount that is likely to open to the United States fishing industry vast markets previously closed due to economic barriers. Consideration also should be given to increasing the fee to a higher, more appropriate level.

Phase-out of foreign processing—Section 301

As with respect to the new fees, we know of no reason why foreign processing operations being conducted in our 200-mile zone should not be phased out. Congress has stated when it passed the Processor Preference Amendment that such foreign operations were to be terminal in nature and that the only manner in which the nation would obtain the full benefits from our 200-mile zone resources would be if such resources were both harvested and processed by the United States industry. Indeed the goals of this legislation as to job increases and added productivity presume that all United States harvested fish will be processed by the United States processing industry. If foreign processing operations are not phased out there will be dramatic shortfall with respect to those stated goals. For example, of the 40,000 jobs that are a goal of this legislation, approximately 28,000 would be due to the development of the Alaskan bottomfish fishery. If the Alaskan bottomfish fishery were to develop so that it were dependent upon foreign processing operations instead of the United States processing industry, most of these jobs would not be created. No more than 2,000 jobs will be created. That is, over 85 percent of the increase in number of jobs will not have been achieved.

Obviously these jobs need not be lost. Icicle supports the phase-out of foreign fishing but believes that the United States processing industry is in no better position than fishermen in using the preference system to displace foreign operations from our 200-mile zone. If this change is not made in the Bill, Icicle believes that the goals of the legislation will not be achieved and the processing industry will be back before Congress in a short period of time asking for further legislation. H.R. 7039 appears to be a comprehensive piece of legislation and it would be appropriate to amend the Bill to phase out foreign processing and to establish comprehensive legislation to provide meaningful help to the United States fishing industry and establish a solid basis for it to control our fishery resources and penetrate those markets that have long been closed to it.

OTHER SUGGESTED TECHNICAL CHANGES AND COMMENTS

Fisheries loan fund—Section 212

This section appears to be limited to adding only those fishermen that are in danger of defaulting on an obligation guaranteed under Title XI of the Merchant Marine Act, 1936, as amended. Many other fishermen than those who have financed their operations with the assistance of Title XI may need the type of assistance provided by this program. If this type of program is to be established, we know of no reason why it should be limited to those that financed their operations through the Title XI program. What about those that financed through some other government or quasi-government program such as the production credit association or simply through private financing; that is, is it the intent of the program to bail out the title XI program or the fishing industry?

Capital Construction Fund (CCF)— Section 201

H.R. 7039 appears to limit the amount of income that can be deposited into the CCF with respect to "fishery facilities" to "that portion of such person's taxable income for such year which is attributable to the operation of agreement fishery facilities." What is not clear is whether this provision includes income that may be earned from the marketing or sale of fish or fish products. The defined term "fishery facilities" is limited to certain operations which may not be interpreted to include the receipts from sale of fish or fish products. Fish processors should not be required to relate income earned for deposit into the CCF purposes to plant operations. Rather they should be allowed to accumulate capital as rapidly as possible. Once any amounts are on deposit in a CCF they can only be used for investment in an asset that qualifies under the CCF; there is no reason why funds should not be allowed to be accumulated as rapidly as possible.

H.R. 7039 states that the CCF amendment is to apply to taxable years beginning after December 31, 1980. Rules concerning when deposits can be made into CCF in order to defer taxes relating to a particular tax year have been set by regulation. The general rule is that deposits for any year can be made up to the time for filing the tax return for such year, including extensions. For example, many corporate tax payers will file their tax return for 1979 on September 15, 1980 and consequently could make a deposit of 1979 income into their CCF on such date and obtain a deferral. If this legislation can be enacted before due dates for 1979 returns, Icicle believes it would be appropriate to allow qualifying United States fish processors to deposit income with respect to such tax year into a CCF.

Observer program—Section 311

We have been informed that the Coast Guard may reduce its enforcement activities under the FCMA to save fuel. This would mean that some other means would have to be relied upon to enforce the FCMA. Icicle supports the full observer program to prevent overfishing. It has been rumored on the West Coast and off Alaska that underreporting of catches by foreign fleets may be as much as 30 percent. Overfishing due to underreporting would affect salmon, herring, crab, and halibut as well as bottomfish species. This adversely affects the resource and the efficiency of United States fishermen by reducing their catch per unit of effort.

The United States harvesting and processing industry of course report their activities with respect to the source accurately and it appears that the only manner by which accurate reporting can be obtained from operations of foreign vessels in our 200-mile zone would be to have observers on each foreign vessel.

Trade barriers—Section 301

Icicle learned from its bottomfish operations this past winter that to be profitable the operation must be conducted on virtually a full-time basis when operating and for more than one species. This means that the large Japanese and Korean Pollock markets must be opened to United States fish processors if the are to be successful.

The limited amount of bottom fish that can be exported to Japan must be sold to the Japanese license-holder that has been authorized by the Japanese government to import such fish. In the case of bottom fish the sole importer is the Japanese Deep Sea Trawlers Association. The problem is that that association conducts its own harvesting and processing operations in our 200-mile zone. Why would this association import fish when it continues to receive a substantial allocation of our fish for its own boats? The answer is that it will not and does not. A similar situation is true with respect to herring imports to Japan which must be imported through the Hakkaido Fishery Co-op.

It should be made clear in H.R. 7039 that these types of abuses are considered nontariff barriers and would cause allocations of fish from our 200-mile zone to be reduced to any nation which engages in such practices.

CONCLUSION

Icicle believes that the State Department and NMFS have more than adequately demonstrated their unwillingness to take actions necessary to assure that our Nation has the capability to process those fish found in our 200-mile zone and control such resources. It is up to the Congress to decide whether it wants a United States fish processing industry.

ICICLE SEAFOODS, INC.,
Seattle, Wash., March 20, 1980.

TERRY LEITZELL,
Assistant Administrator for Fisheries,
National Marine Fisheries Service, Washington, D.C.

DEAR MR. LEITZELL: These comments are in response to the National Marine Fisheries Service notice regarding proposed modifications to foreign factory ship permits that had been issued to such vessels authorizing the receipt of United States harvested fish in the Bering Sea and Aleutian Islands that appeared at 45 FEDERAL REGISTER 11869 on February 22, 1980.

THE ICICLE SEAFOODS OPERATION

Icicle Seafoods is an Alaskan corporation 80 percent of the stock of which is held by Alaskans with most of the remaining stock being held by Seattle employees of the company. Approximately 50 percent of the stock is held by fishermen and the remainder is held by employees and retired employees and fishermen. The only foreign shareholder is an employee in the company's Tokyo sales office who holds 2/100 of 1 percent of the total issued and outstanding shares of stock. All the directors and officers of the company are United States citizens and there are no arrangements or understandings through which the control of the company is exercised by anyone other than the officers and directors.

After Public Law 95-354 was enacted, in the summer of 1978, Icicle Seafoods contracted for the construction of two barges to process Alaskan bottom fish, as well as those species traditionally processed by Icicle Seafoods, such as herring, salmon, and crab. The barges cost more than $15 million. Each barge is 265 x 55 feet, can employ 140 people and has a three-million-pound frozen seafoods storage capacity. Icicle Seafoods assessed the economic viability with respect to the barges on the basis of expected year-round operations in the emerging bottom fish fishery. On April 17, 1979, the first barge was delivered and was quickly moved to the Bering Sea to engage in fish processing operations.

On January 10, 1980 one barge was moved to the Unimak Pass area of the Bering Sea to engage in bottom fish processing operations. Some processing workers for the operation were recruited through Alaska State offices in Anchorage. Fishermen delivering to the Icicle Seafoods operation have been able to acquire the technology necessary to harvest bottom fish efficiently. The fishermen are paid 8 cents/lb. for Pacific Cod and 5 cents /lb. for Pollock. In addition, Icicle Seafoods provides ice, limited machine shop and repair service, and makes price adjustments commensurate with the final market value of the product delivered. Icicle Seafoods plans to conclude these initial bottom fish operations by April 1, 1980, and to follow the fishermen through the herring, salmon, and crab seasons, and then plans to be back on the grounds in the Unimak Pass in late October or early November when these other fisheries will be closed.

By the time Icicle Seafoods ceases operations this spring in Unimak Pass, it will have processed approximately two millions pounds of bottom fish. If the operation had been working at capacity during such periods, approximately five million pounds would have been processed. The fish is sold to Joint Trawlers Ltd. of Gloucester, Massachusetts, who in turn has sold the product in Europe. Icicle Seafoods is selling the bottom fish at 32 cents/lb and consequently should earn over $600,000 from its winter bottom fish operation, which of course contributes a like amount to the nation's foreign exchange.

THE CONSERVATION REQUIREMENT

It appears that the National Marine Fisheries Service (NMFS) has taken the position that a resource conservation reason is necessary to support the imposition of the North Pacific Fishery Management Council (NPFMC) recommendation to close a certain area to foreign factory ship operations, even though such an interpretation of the Fishery Conservation and Management Act of 1976, as amended (the "FCMA") has *not* been the subject of interpretive rule making.[1] For the reasons stated below, we believe that such an interpretation is inconsistent with the FCMA, cannot be supported by reason and consequently is an inappropriate criteria to judge whether the NPFMC-recommended area closure should be imposed.

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[1] We are unaware of any interpretive rule-making proceeding which concluded that a conservation rationale is necessary before an area or other type of restriction may be imposed on a foreign factory vessel engaging in the processing of United States harvested fish. In the preamble to the Gulf of Alaska Ground Fish Fishery Management Plan regulations that appeared at 44 FEDERAL REGISTER 64412 on November 7, 1979, NMFS stated "that restrictions may be appropriate if there is also a conservation related rationale for imposing the restrictions." Most recently, the National Fisherman in the April, 1980 issue at page 86, quoted Terry Leitzell as saying "any such permit condition must have some resource conservation purpose." Nonetheless neither of these pronouncements rank as rules and have any force or effect.

What the FCMA says about conservation.—The FCMA does not treat conservation as an abstract concept. Rather conservation is defined in conjunction with the term management. There is no definition of the term conservation by itself in the FCMA.[2] The combined definition makes sense as it is not the purpose of the FCMA merely to conserve fish but rather to conserve fish in order that they may be utilized in some manner.

The FCMA inextricably combines conservation thus cannot be viewed pursuant to the FCMA unless it is done in the context of how the conserved species is to be utilized. A fisheries biologist or other fisheries manager who merely speaks in terms of conservation as preserving fish in the sea without relating to where the fish are to be found in order that they can be utilized in some manner is not really talking about conservation. Such a limited view concerns preserving fish from extinction, but not conservation as the term is used in the FCMA. For example, if a fishery biologist believes he has appropriately managed a herring resource because there is an abundant resource many miles out to sea, he is mistaken if a native population of Eskimos that has traditionally harvested the herring is unable to reach the resource. The Eskimos in effect have been deprived of the resource. From their point of view herring is extinct. Similarly so, no conservationist would maintain that Kodiak bears were conserved if they could be found only in zoos in the United States and other nations but none could be found on Kodiak Island. No one could effectively argue that the return of a run of Atlantic salmon to a stream without such runs for 40 years due to pollution abatement is not a conservation achievement even though that run does not contribute a measurable number to the universe of salmon existing in the North Atlantic.

The FCMA defines conservation and management in terms of any "fishery resource," which means "any fishery, any stock of fish, any species of fish, and any habit of fish." FCMA Sec. 3. (9). The term "stock of fish" is defined as "a species, subspecies, geographical grouping, or other category of fish capable of management as a unit." FCMA Sec. 3. (22). In our herring example it would appear mandatory the herring would have to be managed in such a manner that the Eskimos would not be deprived of the resource. Otherwise the herring could not be said to be conserved in a "geographic grouping" to assure that "a supply of food" could be taken by the Eskimos. The conservation purpose of the FCMA is not merely to preserve fish in an indiscriminate manner so that one can merely proclaim that they are not extinct. Rather fish must be managed so that they can be utilized and so "there will be a multiplicity of options available with respect to future uses of these resources."

It was a finding of the FCMA that "[m]any coastal areas are dependent upon fishing and related activities, and their economics have been badly damaged by the over fishing of fishery resources at an ever increasing rate over the past decade." FCMA Sec. 2(a)(3). And that "[t]hese fishery resources contribute to the food supply, economy, and health of the Nation. . . ." FCMA Sec. 2(a)(1). And lastly that "[a] national program for the development of fisheries which are underutilized or not utilized by the United States fishing industry, including bottom fish off Alaska, *is necessary to assure that our citizens benefit from the employment, food supply, and revenue which would be generated thereby.*" FMCA Sec. 2(a)(7) (Emphasis added). Consequently it was a purpose of the FCMA "to encourage the development of fisheries which are currently underutilized or not utilized by the United States fishing industry, including bottom fish of Alaska." FCMA Sec. (b)(6). And Congress included as one of the policies of the FCMA "to assure that the national conservation and management program . . . is responsive to the needs of interested and affected States and citizens. . . ." FCMA Sec. 2(c)(3).

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[2] The FCMA defines "conservation and management" as follows:

The term "conservation and management" refers to all of the rules, regulations, conditions, methods, and other measures

(A) which are required to rebuild, restore, or maintain, and which are useful in rebuilding, restoring, or maintaining, any fishery resource and the marine environment; and

(B) which are designed to assure that—

(i) a supply of food and other products may be taken, and that recreational benefits may be obtained, on a continuing basis;

(ii) irreversible or long-term adverse effects on fishery resources and marine environment are avoided; and

(iii) there will be a multiplicity of options available with the respect to future uses of these resources. FCMA Sec. 3(2).

Note that in the reported Senate version of the FCMA, only the term conservation was defined but that the terms conservation and management were stated as being interchangeable. S. Rept. No. 94-416, 95th Cong. 1st sess. 20 (1975).

There can be no question that the FCMA requires those fishery resources found in the fishery conservation zone to be conserved in order that they may be utilized by citizens of the United States. The benefits to be derived by this utilization are of course increased employment, food supply, improved balance of trade, increases in local revenues, etc. Any criteria that focus on conservation merely as a concept to preserve fish without providing for utilizing and the associated benefits are inconsistent with the FCMA, overly narrow in scope and irrational.

As a legal matter this issue was directly faced in the settlement of the law suit in which Icicle Seafoods participated against NMFS and Terry Leitzell. The Stipulation of Settlement unequivocally states that the FCMA does *not* prohibit the imposition of an area restriction, such as that recommended by the NPFMC, merely for developmental (economic) reasons. The issue was negotiated among NMFS lawyers and Department of Justice lawyers, approved by the Departments of Commerce and Justice, presented to and approved by the court where it was entered as an order of the court. NMFS cannot now conclude that the FCMA requires it to find a conservation rationale before it imposes an area restriction, to do so would be a violation of the court for which contempt proceedings could be brought. NMFS could not even engage in rule making at this time and attempt to reach such a conclusion through regulations. The judiciary has been involved with respect to this issue and has given its approval to the agreed upon interpretation of the FCMA.

The reason why a preservation of fish criteria makes no sense.—The reason the FCMA does not require a preservation of fish criteria for the imposition of an area restriction on foreign factory ship operations is because it would make no sense to do. Once fish have been reduced to capture and their handling procedures established on ship board, the manner and where the fish are to be processed are highly irrevelant to the preservation of the fish. If it is a goal to preserve a species of fish in a particular area, this goal can always be accomplished by directly controlling the harvesting operations. That is, fishermen could be kept out of a particular area or be required to use a particular harvesting and handling technique in order that the fish be preserved.

For example, if it is the goal of a fishery management team to reduce the harvest of Pacific Cod in a particular area, the most effective way to do so would be to limit the amount of Cod that could be harvested in such an area. Additional measures could even include limiting the number of vessels that would be permitted to harvest in such area. Preventing a fish processor from being in the area is a rather obtuse management technique that could only indirectly have the desired effect. The point is not that regulating processing operations has no effect on where harvesting operations will occur but that there is always a better way to control where such harvesting operations are to occur; namely, by regulating them directly. Any fishery biologist or fisheries manager that seeks to preserve a particular species in a particular area by controling a processing operation must recognize that it is at best an indirect way to manage the preservation of any species.

This is exactly why the FCMA does not require a preservation of the species rationale for imposing restrictions on foreign factory ship operations. Fish can be preserved by more direct and effective means. The reason the FCMA allows restrictions to be placed on foreign factory ship operations is to protect United States fish processors from unfair foreign competition. It was recognition of the wide economic discrepancy between foreign and United States fish processing operations that caused Congress to pass Public Law 95-354.

It was evident immediately without appropriate legal authority to regulate these "joint ventures" between foreign processing vessels and U.S. fishermen that the U.S. fish processing industry would face an uncertain future and would have to compete for all species within our fishery conservation zone with a foreign fleet *operating on a significantly different cost basis.* One potential outcome to this situation would be significant damage to the domestic processing industry. S. Rept. No. 95-935, 95th Cong., 2d Sess. 2 (1978) (Emphasis added.).

The key point is that virtually none of these benefits will flow to the American economy and the American consumer if foreign processing vessels operating within the FCZ receive U.S. harvested fish. *Due to the absence of minimum wage, safety, and antipollution laws, which have been enacted to preserve the quality of life in America, these foreign processing vessels can outbid U.S. fish processors.* In fact foreign fish processors operating within the U.S. 200-mile zone often pay their workers only 30 cents per hour while, according to the May 1978 Employment and Earnings Report of the U.S. Department of Labor, the average U.S. wage for seafood processing in February and March of 1978 was $4.54. H. Rept. No. 95-1334, 95th Cong. 2d Sess. 6 (1978) (Emphasis added.).

An area restriction should be imposed to effectuate these goals rather than seeking to preserve a species of fish.

The often quoted provision of the Senate Report on this topic is worth repeating on this occasion.

The Secretary of Commerce, when issuing permits to foreign processors, *should include* appropriate and detailed conditions and restrictions on the operation of the vessel within the fishery conservation zone. These measures should ensure compliance with the conservation and management principles of the FCMA, the objectives of this bill, and other applicable law. Thus, for example, as long as the interests of the U.S. harvesters are not significantly affected, the Secretary may consider imposing geographical restrictions on the areas in which foreign processing vessels may operate *in order to foster the development* of temporarily vulnerable or developing onshore processing facilities. Senate Report at 4 (Emphasis added.).

The point is that geographic area restrictions were intended to be placed on foreign factory ship operations to protect United States fish processors rather than to preserve any species fish. NMFS should foster the development of United States fish processors, such as Icicle Seafoods, as stated by the Senate Report, rather than imposing an irrelevant preservation criteria to the imposition of geographic area restrictions.

Conclusion, the conservation requirement.—We have shown that any conservation requirement has to be considered in conjunction with how the conserved resource will be utilized by citizens of the United States and that conservation means more than preservation of any particular species of fish. Consequently the NMFS attempt to have a preservation of the species rationale for imposing the NPFMC-recommended geographic area restriction is unwarranted and without basis in the FCMA. Also the attempt is in violation of a court order, an improper attempt at interpretative rule making and nonsensical.

A conservation principle that has as its purpose utilization of a particular species of fish in a particular location for the benefit of United States citizens, which does not adversely affect the species involved, has been expressly contemplated by the Congress when they enacted the FCMA. At this time when Icicle Seafoods developed a United States fish processing operation in the manner intended by Congress, NMFS should foster and protect its operation. And those species of fish found near its operation should be conserved and managed in a manner that benefits the Icicle operation. The suggestion that foreign vessels have a right to operate in that area is abhorrent to the FCMA and common sense. The only relevant criterion is whether the area restriction would significantly adversely affect those fishermen that choose to make deliveries to the foreign factory ships.

HOW THE AREA RESTRICTION WOULD PROTECT ICICLE SEAFOODS

The proposed area restrictions would protect Icicle Seafoods in the exact manner contemplated by Congress. it would prevent any foreign factory ship from competing unfairly in the same area in which Icicle Seafoods has initiated its operations. As Congress has clearly stated, the foreign factory ships operate on a far different cost basis than do United States fish processors and can simply outbid United States fish processors. This is exactly what the Soviet Union operation is doing with respect to Pacific Cod. They are paying 9 cents/lb. whereas Icicle is paying 8 cents/lb. (We are unable to quantify whether the additional items of value which Icicle provides to its fishermen makes up for this difference.)

Although Icicle is quite pleased with its bottom fish operation they have yet to reach a break-even point. Joint Trawlers is very satisfied with the quality of Icicle's Alaskan cod and is hopeful that once its excellent quality is recognized in Europe that it can be marketed for a more appropriate price. Alaskan Cod compares quite favorably with Icelandic Cod and is superior in all respects to Atlantic Pollock, and once these differences are more widely recognized it is believed that significant market opportunities will be available for Icicle Seafoods bottom fish products. Certainly until Icicle is beyond this vulnerable period of development of its bottom fish operation it deserves the protection that Congress intended NMFS provide.

The area restriction would protect the Icicle Seafood operation by forcing foreign processing operations away from the comparatively small area in which Icicle is operating. Inasmuch as the Icicle operation is not highly mobile it is effectively forced to operate in fixed locations for extended periods of time, whereas the foreign factory ship operations are of course highly mobile and can choose to fish in many different areas during the same period of time. As will be discussed in greater detail later, there is a vast and abundant resource of bottom fish, including Pacific Cod, available to the foreign processors in many other locations where vessels of the United States could safely and successfully operate.

The Icicle operation has not been receiving enough fish and consequently has not been working to capacity.[3] The presence of the Soviet Union factory ships and the market they offer has adversely affected the Icicle operation. Moving this market would greatly enhance the ability of Icicle to operate its barge at the desired capacity. It must be remembered that the proposed area restriction would not restrict in any way fishing vessels of the United States. They would continue to be able to fish wherever they may choose, including within the area closed to the foreign factory ships. They could fish wherever they choose and once the fish have been reduced to capture they could choose to deliver it to either a United States or foreign processor, provided of course that there has been a determination that surplus fish are available which can be sold to foreign processors.

On March 3, 1980 Walter T. Pereyra testified before the House Subcommittee on Fisheries and Wildlife Conservation and the Environment on behalf of Marine Resources and stated that the Soviet factory ships were going to target upon Pacific Cod. According to Edgar A. Best, fisheries biologist (report attached), a more plentiful resource of Pacific Cod exists outside the proposed closed area.[4] Indeed Ted Evans, who testified on behalf of Marine Resources before NPFMC at the January 8, and 9, 1980 meeting, stated that a vast resource existed outside the proposed closed zone in which they had successfully conducted operations in the past. The motivation of the Soviet operation appears quite clear, that is, not to operate where the fish are but to operate where the only United States fish processor has initiated its operations.

At the same hearing before the House Subcommittee, Morris D. Busby, Acting Deputy Assistant Secretary for Oceans and Fisheries Affairs, Department of State, stated that the Soviet Union was not engaging in the joint venture operations for economic reasons but rather that they were doing it for political reasons. Since the Soviet Union has invaded Afghanistan President Carter has stated that he in effect failed to recognize the resolve of the Soviet Union to dominate the world. Icicle Seafoods cannot and should not have to compete against a world power that is prepared to suffer economic losses to have its vessels close to the shores of our nation for political reasons. Icicle Seafoods, of course, is a private organization and must rely upon its ability to survive economically without any government largesse. NMFS cannot expect Icicle Seafoods to survive against the economic power of the Soviet Union. Rather, Icicle should be afforded the level of protection that NPFMC unanimously voted to give it.

Moreover, there can be no doubt that the Soviet Union is intent upon engaging in predatory practices in our 200-mile fishery conservation zone. We have been informed by staff personnel of the Coast Guard and the NPFMC that the Soviet Union processing vessel *Sulak* has been cited for underlogging 25 metric tons of herring on January 20–21, 1980. The purpose and effect of such actions are obvious and need not be restated here.

Lastly, it is important to note that the Icicle Seafoods operation is exactly the type of operation that is necessary to aid this nation's dangerous economic situation. Construction of the Icicle barges took place in the United States and some workers for the processing operation came from the Alaskan State offices in Anchorage. The Icicle operation has added real productivity to our nation and, due to the European sales, contributed positively to our balance of trade. All this economic activity and these benefits have accrued to the nation without the government having to grant a subsidy or print yet another batch of dollars. The Icicle operation represents real development and deserves the protection of the United States government. Icicle Seafoods is not asking for handouts or to be bailed out like Chrysler, but is asking merely to be afforded the protection that Congress intended it should receive.

Due to President Carter's new economic policy that was announced last Friday on March 14, it would appear that the fishing industry should not expect any economic aids to foster the development and growth of the industry. It cost nothing to impose the area restriction. The government can effectively aid this industry and its development without spending any money. Perhaps this is the best reason, at this time, for the NMFS to do what the NPFMC has unanimously recommended that it do.

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[3] From the time Icicle Seafoods initiated its operation on January 10, 1980 through the first week in March, Icicle had received one-quarter million pounds whereas through the same period it had a capacity of four million pounds.

[4] Also see a report by Richard Bakkala and Terry Sample entitled "Higher Abundance of Pacific Cod Expected in Eastern Bering Sea in 1980–82" (copy attached) and the Northwest and Alaska Fishery Center memorandum to Mike Hershberger, Staff Assistant, NPFMC (copy attached).

THE NMFS CRITERIA FOR JUDGING

In the notice regarding the proposed permit modifications NMFS indicated that it would judge whether to impose the area restriction based upon three criteria.[5] We will address these criteria in order, but first we believe that it is essential to address the presumptions of NMFS that appeared in the notice.

The NMFS notice stated: Although the restriction would be placed on the foreign vessel, it effectively would reduce U.S. fishing in the vicinity of certain domestic processors' facilities because U.S. joint venture fishermen would prefer to remain in close proximity to their processing vessels. Thus, only six to eight U.S. trawlers would operate in the area (landing groundfish for U.S. processors) rather than up to 24 trawlers which could work the fishing grounds if foreign processors also operated in the area.

This statement presumes that all joint venture fishermen would abandon all fishing efforts in the closed area. It must be remembered that the restriction in no way directly affects the harvesting efforts of any vessels of the United States. The restriction does not discriminate between any class of United States fishermen, they would remain unrestricted in where they might choose to fish. While it is true that those U.S. fishermen that choose of their own free will to make deliveries to foreign processor may also choose to engage in their harvesting operations in close proximity to the foreign processors, any such fisherman would not be prevented from fishing in the proposed closed area and delivering to United States fish processors or any foreign processor for that matter wherever located. The point is that it is unfair to conclude that a certain number of United States fishermen will automatically fish in different areas in order that they can continue to make deliveries to foreign processors. They are free to choose where they will fish and where they will deliver any fish that are harvested. If the goal of the area restriction was merely to reduce the harvesting effort in the proposed closed area, that goal could have been achieved by more direct means; namely, the traditional methods of directly limiting vessel time on the grounds or limiting the number of vessels in the area involved. We would agree that some vessels may choose to fish in other areas if the area restriction is imposed, but believe that such action cannot be considered as an action that directly affects the fishermen involved.

The NMFS notice also stated, "The Council's recommendation contains measures which effectively allocate an economic benefit between two groups of fishermen." The notice then continues and states that nonetheless the restriction could be imposed if the three criteria are met. This seems to incorporate national standard 4 of the FCMA.[6] In addition, the NMFS notice cites section 302(b)(2) of the FCMA regarding authority to designate zones where fishing can be restricted. The proposed area restriction is not being imposed as part of a fishery management plan but rather as part of the permit-issuing process under Section 204 of the FCMA.

Section 204(b)(7) of the FCMA authorizes the imposition of area restrictions in addition to those included in any fishery management plan or preliminary fishery management plan. The national standards for the development of fishery management plans are not applicable in the present proceeding. NMFS has a wider degree of discretion and authority under its permit-issuing authority than it or a fishery management council does with respect to the development of fishery management plans. The purposes and policy of the FCMA are more appropriate guidelines for NMFS to be considering when it is imposing an area restriction beyond what has been provided in a fishery management plan. We believe the purposes and policy of the FCMA previously cited and the agreed upon interpretation of the FCMA as stated in the Stipulation of Settlement make it clear that the NPFMC-recommended area closure is both necessary and appropriate.

Nonetheless the proposed area closure meets the requirements of national standard 4. It does not discriminate between residents of different States as fisherman from any State can choose to fish where and for whomever they will even if an area is closed to foreign processors. Secondly it is not an allocation or an assignment of fishing privileges among United States fishermen. It could be argued that it is an allocation or assignment between United States and foreign fish processors but not

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[5] These criteria are: (a) the measures are reasonably calculated to promote conservation and management; (b) the measures do not seriously adversely affect the U.S. fishermen involved; and (c) reasonable alternatives are available for the fishermen who may be adversely affected.

[6] National standard 4 is as follows: Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges. FCMA Sec. 301(a)(4).

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among United States fishermen. As the Senate Report which accompanied the FCMA stated when addressing the issue of allocations among United States fisherman: "Resource management is essentially a [series] of allocations—allocations among present users, allocations between present and future users, and allocations between public and private interests. There are simply not enough fish to go around and the line must be drawn somewhere." S. Rept. No. 94-146, 94th Cong. 1st Sess. 31 (1975). National standard 4 concerns allocations among United States fishermen, not among processors nor among United States and foreign interests.

When a management measure directly allocates a resource among competing domestic interests there is no question that a standard like that of standard 4 would be appropriate. Under the present circumstances, where NMFS has a duty to protect the United States fishing industry, the concerns are completely different and any standard such as standard 4 is inappropriate and should not be applied. The standards to be applied between competing United States and foreign interests are not the same as between competing United States interests. One of the corner stones of the FCMA is that fishermen should have the right to harvest fish to the exclusion of foreign interests. No one would argue that under the FCMA, NMFS should not discriminate against foreign interests or allocate a privilege in a manner that only United States citizen interests are allowed to take advantage of the privilege. The point is simply that different standards apply to the issue at hand and those standards are the purposes and policy of the FCMA which have been cited earlier.

Reasonably calculated to promote conservation and management.—It has already been demonstrated that this criterion must relate to more than a preservation of species type of rationale. And as was cited in the Senate Report above, management is essentially a series of allocations. There can be no doubt that the poposed area restriction will promote utilization of Pacific Cod by Icicle Seafoods and allocate an area to Icicle in which foreign interest cannot operate. As processing is included within the term fishing under the FCMA[7] a management measure which allocates processing rights is a management measure within the meaning of the FCMA.

To a great degree the proposed management measure is much like the management measure specified in § 611.90(c)(2) of the Foreign Fishing Regulations; namely, that foreign vessels are prohibited from harvesting within 12 miles of the United States. Such a management measure allocates an area exclusively to vessels of the United States. It does not regulate an amount of fish that may be caught in such area by vessels of the United States. No one appears to question the appropriateness of this management measure.

The proposed closed zone is a similar management measure. It would allocate an area exclusively to United States fish processors without directly regulating an amount of fish that may be caught in such area by vessels of the United States. There is no substantive difference between these two management measures. They both have the same effect; that is, to move foreign interests into an area in our 200-mile zone in which there is less likelihood that they will adversely affect any segment of the United States fishing industry.

A management measure that promotes the utilization of a species of fish by United States interests is within the meaning of the term "conservation and management" as such term has been defined in the FCMA. The effect the measure may have upon the preservation of the species of fish involved will be discussed elsewhere in this comment.

The proposed closure would not seriously affect the U.S. fishermen involved and there are reasonable alternatives for the U.S. fishermen who may be adversely affected.—We have chosen to comment on the second and third criteria together, as the distinction between them is somewhat fleeting and consequently difficult to grasp. Criterion (b) appears to be concerned that the proposed area restriction not significantly adversely affect the United States fishermen involved in the manner stated in the aforecited Senate Report. Criterion (c) appears to be concerned that those who are adversely affected (but perhaps not significantly so) have reasonable alternatives. Logic leads one to the conclusion that if United States fishermen have an alternative area where they can successfully operate they will not be significantly adversely affected. As previously mentioned, the proponents of the Soviet Union operation stated before the NPFMC that a vast abundant area existed outside the proposed closed zone in which they had successfully conducted operations in the past and were unable to come forth with any reasons how their operations could be harmed by the proposed area closure. Indeed the only fishermen that could be harmed are those with smaller vessels who do not have the capability to travel great distances from shore and could be greatly harmed if NMFS failed to impose the area restriction.

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[7] This point was clarified when the FCMA was amended by the enactment of Public Law 95-354 and appears to be beyond question at this point. Even the Department of State witness at the aforementioned House hearings regarding the Soviet Union Governing International Fisheries Agreement testified that joint ventures could not be permitted to operate if the GIFA were terminated because under the FCMA the term fishing includes processing.

There seems to be no question anymore that management measures may be imposed even if they adversely affect fishermen that choose to harvest and make deliveries to foreign processors; provided, however, that the management measures does not significantly (or as NMFS states, seriously) adversely affect those fishermen involved. Mr. Pereyra in his recent testimony before the House Subcommittee on Fisheries indicated that the Soviet Union processing operation takes deliveries from large and medium-size American trawlers and in addition to targeting on Pacific Cod planned to target on Yellowfin Sole in the Central Bering Sea. There appears to be no question that the vessels of the United States that have chosen to make deliveries to Soviet Union processors have the ability to engage in operations in open waters great distances from any port, roadstead or harbor, whereas a smaller class or vessels is making deliveries to the shoreside United States processors. These vessels, of course, do not have the same capabilities as larger vessels and must remain closer to shoreside support operations.[8]

Average catch data for the nation of Japan from 1972 to 1976 and for all nations combined for the years 1977 and 1978 show that the most productive bottom fish areas in the vicinity of Akutan and Akun Islands are outside the proposed closed area.[9] Statistical block 4, the area bounded by 166°–165° W longitude and 55° × 54½° N latitude, appears to be the most productive statisical block with the next westernmost block, statistical block 7, 167° × 166° N longitude and 55°×54½° N latitude, being the next most productive block. The attached charts from the NMFS Northwest and Alaska Fisheries Center state these results and most importantly also show that the statistical blocks closest to the Islands of Akutan and Akun are substantially less productive than statistical blocks numbers 4 and 7.

area.[9] Statistical block 4, the area bounded by 166° × 165° W longitude and

The alternative for those fishermen with large and medium-sized vessels that would still choose to make deliveries to the Soviet Union processing vessels would be to engage in harvesting operations in the most productive bottom fish statistical blocks in the area. The proposed area restriction would not prohibit the Soviet Union factory ships from operating in almost all of statistical block 4 and in all of block 7. If certain fishermen choose to work in close proximity to these foreign factory vessels in these statistical areas they could do so and would be less than 12 miles from Akun Island. That is not to say that such fishermen themselves would have to operate 12 miles from Akun Island. They, of course, could fish directly within Unimak Pass and deliver their catch to the Soviet Union factory vessles just a couple of miles away. Or alternatively, such fishermen could conduct their operations within close proximity to the Soviet Union vessels, outside 12 miles and engage in harvesting operations in the most productive grounds available. Either of these alternatives could not significantly adversely affect these United States fishermen. Indeed it would appear that significant benefits may be capable of being achieved if one would choose to operate in statistical blocks 4 and 7 and had the availability of a processor in such blocks where deliveries could be made. Obviously, the Icicle Seafoods barges cannot operate in such blocks.

It cannot be argued in any rational way that the proposed area restriction would force the United States fishermen that choose to make deliveries to the Soviet Union vessels to operate in less protected consequently less safe fishing grounds. The Unimak Pass itself is well known for its rip tides and any vessel operator can testify to the dangers of operating a vessel in the vicinity of land masses and the varying bottom depths that are encountered close to shore. An operation conducted closer to shore is not necessarily a safer operation. Moreover, under current law the Soviet factory vessels cannot take deliveries at sea within the boundaries of any state, in this case three miles. FCMA Sec. 307(2)(A). Thus under current circumstances the deliveries must be made in open waters three miles from any port, harbor or other protected area. There is no substantial difference between making these types of transfers three miles out to sea or 12 miles out to sea. Indeed it may be somewhat safer if the transfers were to occur outside 12 miles.

Conclusion, the NMFS criteria.—It has been demonstrated that conservation and management measures must relate to how a resource is to be utilized and that the proposed area restriction tends to provide for utilization of the species involved in the manner intended by Congress; namely, totally by United States citizens. Moreover it has been shown that the only relevant criterion is whether the proposed area restriction would significantly (seriously) adversely affect those United States fishermen that choose to continue to make deliveries to foreign processing vessels and that the proposed restriction in no manner adversely affects such fishermen as there are eminently reasonable alternatives available to them.

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[8] The vessels making deliveries to the Icicle Seafoods operation range from 75 to 105 feet and have not been specifically designed to engage in trawling operations to produce consumable seafood. The vessels generally have been used to harvest bait for other fisheries and for other purposes. These limitations, of course, make those vessels more suitable for operations conducted close to shore.

[9] See Memorandum of Northwest and Alaska Fishery Center, previously cited in footnote 4, and attached.

THE MARINE RESOURCES COMPANY (MRC) POSITION

By letter dated February 7, 1980, Richard N. Sharood submitted a statement on behalf of "Marine Resources Company and the fishermen associated with the Bering Sea/Gulf of Alaska joint venture who are members of the National Federation of Fisherman affiliated organizations" commenting on the NPFMC-recommended area closure. The MRC statement in our view is seriously misleading and inaccurate as it concerns the actions of the NPFMC that lead to the recommendation of the area closure. The conclusion that the NPFMC action was "a discriminatory management measure which has no rational basis" is totally unwarranted and cannot be supported from the NPFMC record with respect to this issue nor is the MRC statement backed by an analysis of any judicial or administrative law principles. Rather, the MRC statement is in great part conclusionary and when an attempt is made to base conclusions upon premises often the premises are not established by fact, reason or law.

The NPFMC procedures and record supporting the action.—The NPFMC first became aware that the United States fish processing industry was desirous of having protected areas established as contemplated by Public Law 95-354, in September of 1978, shortly after passage of the law. At regularly scheduled meetings of the NPFMC early in 1979 the issue also was presented. While the June 20, 1979 letter of Icicle Seafoods was the most complete presentation of the area closure concept, it certainly was not the first occasion in which the concept was presented to the NPFMC. Since the June 20th letter the concept has continually been before the NPFMC for its consideration as either an amendment to the Bering Sea or Gulf of Alaska fishery management plans or as a recommendation associated with its approval of foreign processing vessel permits. This activity reached its peak at the December 1979 and January 1980 meetings of the NPFMC with respect to its consideration of foreign processing permits for the 1980 season. The concept of the Akutan and Akun closure area was not brought for the first time in a motion before the NPFMC as Mr. Sharood states, but rather was included within the scope of the area closure concept from the very beginning.

At the December 1979 and January 1980 meetings of the NPFMC extensive presentations were made with respect to the closure area issue by both proponents and opponents to the closure. Ample opportunity as available for each side to present its economic and conservation views with respect to the issue before the NPFMC and its advisory panels. Neither side was burdened with having to prove its case by some degree of proof as suggested by Mr. Sharood. Rather, the NPFMC viewed the record in its entirety in a very methodical way and on the basis of the record as a whole and the members' significant experience in the fishing industry, decided unanimously that it was necessary and appropriate to close an area to foreign processing vessels to protect the infant developing United States fish processing industry and for certain conservation reasons that will be addressed later.

The NPFMC action was deliberate and in the final analysis solidly based upon the facts before it. Perhaps the reason MRC is upset with the NPFMC action and procedures is only due to its lack of success before that body. Indeed, when the NPFMC inquired of those representing MRC whether they would be harmed by the imposition of the area closure, they could not articulate any adverse consequence that would befall their operation or those United States fishermen making deliveries to their operation. It appears that MRC did not and does not have a rational basis to oppose the area restriction. While this may have caused MRC to become somewhat frustrated, it does not support its attack on the NPFMC.

The first great error in the MRC statement.—The MRC statement immediately presumes that the national standards apply to the permit approval process without even examining the FCMA on such a point. The national standards relate exclusively to the preparation of fishery management plans and any regulations promulgated to implement any such plan. FCMA Sec. 301(a). As addressed earlier in this comment additional discretionary authority is provided to NMFS in the permit issuing process under the FCMA. FCMA Sec. 204(b)(7)(D). Even if a fishery management plan did not address the issue of an area restriction, NMFS could choose to impose one on a permit if, for example, it determined it was necesary and appropriate to do so "in order to foster the development of temporarily vulnerable or developing onshore processing facilities." However, and more importantly, as will be shown later, the national standards, even if they were to apply, would not be a barrier to the imposition of the NPFMC-recommended area closure.

The second great error in the MRC statement.—At page 2 of the statement a conclusion is quickly reached that the area closure would be "a direct limitation on the fishing areas available to U.S. fishermen fishing for Marine Resources." Mr. Sharood argues that there is a limitation due to the technology employed, specifically the cod-end transfer technique employed in the Soviet Union operation. Then on page six of the statement he concludes that there is some sort of high mystical burden "for closures which apply to certain members of a class of United States fishermen whereas other U.S. fishermen of this class using exactly the same type of gear and seeking the same species of fish have no such restrictions." Mr. Sharood cannot have it both ways. Needless to say, this leap from distinction and special treatment due to the cod-end technology to discrimination among members of the same class of fishermen defy reason and certainly shatter Mr. Sharood's entire argument. The error is either ignoratio elenchi (irrelevant conclusion) or petitio principii (begging the question). Fundamental principles of logic require any arguments committing such errors to be discarded.

*The third great error in the MRC statement.*At page two of the statement it is also concluded that the proposed closed area is productive, safe, familiar and thus "easier to fish." It has already been shown earlier in this comment that such conclusions are not supported by NMFS data and do not take into account that deliveries by law are limited to at sea locations that are unprotected; thus the area closure would present no change in that regard, and safer locations are not necessarily those close to shore—again a case of petitio principii.

The national standards.—Mr. Sharood states that national standard 2[10] is most applicable to this proceeding then hastily concludes that the NPFMC recommendation "was based on no scientific information and such information, albeit incomplete, is available." What Mr. Sharood fails to indicate is that the term "scientific information" includes more than just information about preservation of a species of fish. The Senate Report to the FCMA states: "The term 'scientific information' is meant to include not only biological and ecological data but also economic and sociological information as well." Senate Rept. No. 94-416 94th Cong. 1st Sess. 32 (1975). Certainly nobody directly involved with the NPFMC proceedings would suggest that there was an absence of economic and sociological information presented to the NPFMC with respect to this issue. In addition, ample information was presented concerning the effect the restriction could have upon certain species found in the proposed closure including information from the Alaska Department of Fish and Game, which supported the closure.

National standard 4 has been discussed in some detail earlier in this comment and the points made there will not be repeated here. Mr. Sharood again makes a logical error in his analysis of standard 4. He has presumed that the closure would be an "unprecedented deprivation to U.S. fishermen or productive fishing grounds to preserve them for fishermen who are fishing for one company." The action is not unprecedented; an area was closed to the Soviet Union factory vessels in the Pacific Whiting fishery off the Coast of California, Oregon, and Washington during the 1979 season. A preservation of the species rationale has never been articulated with respect to such closure. In addition, as previously stated, there is nothing associated with the proposed closure that would prevent fishermen from making deliveries to any processor, albeit a domestic or foreign processor. There simply would be no restrictions on any vessels of the United States as to where they can engage in harvesting operations.

The suggestion that because certain fishermen choose to utilize the cod-end transfer technique they will be discriminated against if an area is closed to foreign processing vessels makes no sense. There simply would be no barrier to prevent such fishermen from harvesting wherever they may choose and hauling the net on deck and delivering the catch to shoreside processors. They could choose to operate in such a manner, which of course would be no different from those fishermen currently making deliveries to Icicle Seafoods. The fishermen are free to choose how they will fish, where they will fish, and to whom they will make deliveries. There would not be any discrimination associated with the closure.

Moreover, the choice is not merely to protect "one company" as Mr. Sharood states, but rather to give priority to the only United States fish processing operation in the area involved. One cannot forget the three-tiered system established by

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[10] National Standard 2 is as follows: Conservation and management measures shall be based upon the best scientific information available.

Public Law 95-354, under which operations like that of Icicle Seafoods are to be given a preference over partly foreign operations like that of MRC.

Lastly, national standard 5[11] is addressed by Mr. Sharood. The presumption made is that the proposed closure "has economic allocation as its sole criterion." As discussed above, allocations between United States and foreign interests are the cornerstone to the FCMA and are not improper. Standard 5 concerns measures which promote efficiency and provides with respect to such measures that economic reasons cannot be the only criterion to promoting efficiency in the utilization of a fishery resource. In addition, the NPFMC did find and express benefits other than economic protection which could result from the area closure.

*The floating barge issue.*Mr. Sharood argues that the Icicle Seafood floating processing barges "cannot qualify for any form of protective measure even if a conservation basis can be shown to exist." Mr. Sharood is quick to direct his discussion to the visions of selected members of Congress, yet does not address what the law says. The FCMA defines "United States fish processors" to include "vessels of the United States used or equipped for, the processing of fish for commerical use of consumption." FCMA Sec. 3(25). Mr. Sharood's argument is specious.

THE CONSERVATION (PRESERVATION) PURPOSE

Notwithstanding Icicle Seafood's position that the presence of a preservation element is not a legal requirement, but at best only one which may be required as a matter of discretion by NMFS, Icicle nevertheless presented ample testimony before the NPFMC regarding the presence of such an element, from which the NPFMC could and did reasonably find that a preservation of species of fish purpose was served by the proposed area closure.

The record of the December 12-14, 1979 and January 8-10, 1980 NPFMC meetings reflects that NMFS legal counsel Patrick Travers and Michael Stanley both advised that in order to impose the area restriction, the NPFMC should find that a preservation element is present to support the restriction. Indeed, members of the NPFMC discussed with the attorneys the necessity of a preservaton element during the open portion of the meeting of December 12-14. NMFS legal counsel expressly responded to a question regarding whether or not the testimony as a matter of law established a preservation element by indicating that that was a question for the NPFMC to determine, presumably as a matter of fact.

Considerable testimony had been presented to the NPFMC through representatives of Icicle Seafoods calling attention to the preservation benefits to be derived from the reduction in mortality to incidentally caught Halibut and also to the general benefit to be derived from reducing excessive trawling concentration on the inshore fishery stocks immediately surrounding Akutan and Akun. In short, since a number of fishermen were committed to fish for the Icicle operation and would be operating in the 12-mile area, the concentration of vessels fishing for foreign factory vessels in exactly the same area, according to the testimony as well as simple common sense, could result in overfishing of the localized stocks, and result in at least a temporary, if not a permanent reduction of the quality of fishing in that area.

Part of the testimony presented to the NPFMC referenced the work of James Blackburn, a biologist studying Halibut mortality under a grant from the NPFMC. That work and the 50 percent Halibut mortality rate on non-cod-end operations are more extensively discussed in the Report of Edgar Best referred to earlier and attached.

Even more detailed evidence regarding the conservation issue was made a part of the record before the January 8-10 meeting of the NPFMC. Specifically, Icicle Seafoods submitted a written request outlining the potential impact on overfishing of local stocks as well as the Halibut mortality issue, which submission was transmitted to each NPFMC member for consideration at the meeting. In addition, witnesses Allen Ottness and Kim Suzlie as well as James Seeley testified on behalf of Icicle as to the economic benefit as well as the preservation benefits to be derived for inshore fishery stocks and Halibut stocks, resulting from this area closure. Witnesses for the opposing point of view were also heard extensively on the preservation point and contended that the conservation benefit was small, and generally opposed the imposition of area restrictions.

It is particularly noteworthy that no witness testified on behalf of MRC that no preservation benefit would be derived from the reduction of concentration on these particular fishery stocks, and from the avoidance of increased mortality with incidentally caught Halibut.

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[11] National standard 5 is as follows: Conservation and management measures shall, where practicable, promote efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.

The criterion suggested by NMFS is that an economic allocaton not be the sole basis for the imposition of an area restriction. It follows according to the analysis of NMFS, that at least as a matter of policy, some preservation benefit should derive as well. The record before the NPFMC contains more than adequate testimony, which is essentially uncontroverted by the opponents, that some preservation benefit would derive from the proposed area restriction. The fact that it is also economic in nature in no way deprives it of effectiveness.

In light of the specific advice given to the NPFMC by NMFS legal counsel at both the December and the January meetings, allerting it to the position of NMFS that a preservation benefit should be found, and in light of the discussion on the record by NPFMC members regarding the necessity to find a preservation benefit and, an honest reflection on the part of NPFMC members including of course those members who are fisheries biologists, on the record as to whether a preservation benefit had been adequately proved, it is uncontrovertible that the NPFMC had before it the issue of whether the proposed area restrictions contained a preservation element. On the basis of the evidence before them and their extensive experience in the fishing industry, all members of the NPFMC, including the fisheries biologists, found a preservation purpose to the proposed area closure and voted unanimously to recommend NMFS impose such a restriction.

The transmittal letter of the NPFMC to Mr. Leitzell regarding the conditions and restrictions amply sets forth the findings of the NPFMC. That letter expressly states "The Council is concerned that the additional pressure in that rather small area that could be exerted by American delivering to foreign processors could impact local stocks adversely . . . Pacific Cod will be the preferred target species for all of these operations and the Council feels that the effort should be spread as much as possible to avoid overfishing on localized stocks." It is evident from the letter of the NPFMC that the specific testimony regarding preservation was focused upon and the NPFMC made an express finding of fact that the preservation element was present. The attached Report of Edgar A. Best strongly supports the findings of the NPFMC. There can be no question that the judgment of all the members of the NPFMC with respect to this issue was correct and deserves to be implemented.

Also, included in the NPFMC record is a resolution of the Alaska Department of Fish and Game acknowledging the conservation benefit resulting from avoiding undue concentration on inshore fishery stocks, and declaring support for the area closure. This resolution from another body with expertise in this area was presented to the NPFMC and provides an additional evidentiary base for the NPFMC's decision. We submit that the expertise of these regional bodies with experience and familiarity with the area in question is entitled to considerable respect from NMFS, and that the NPFMC decision should be rejected only if there is no evidence to support it. Here the record before the NPFMC demonstrates that considerable evidence regarding preservation was presented and expressly found valid.

CONCLUSION

NPFMC Chairman Clement Tillion commented after hearing some of the testimony, if he were a competitor of Icicle Seafood's immobile shore-based operation, and if he were allowed to do so, he would come in and fish the inshore grounds near Icicle bare as quickly as he could and then would move off with his floating processing vessels to a more advantageous location. The insight of his statement indicates that the economic and preservation elements of the area closure as a "conservation and management" measure perhaps cannot and should not be completely separated.

I sincerely hope that the importance to the United States fishing industry of a favorable resolution of this issue will be recognized and that NMFS will not find any barriers to imposing the NPFMC-recommended area closure.

Sincerely yours,

ROBERT M. THORSTENSON,
President.

Attachments.

U.S. DEPARTMENT OF COMMERCE,
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION,
NATIONAL MARINE FISHERIES SERVICE,
Washington, D.C., October 25, 1979.

Mr. LAWRENCE P. BRODIE,
McLean, Va.

DEAR MR. BRODIE: Thank you for your letter of June 21, 1979, to Mr. Leitzell regarding your petition to the National Marine Fisheries Service (NMFS) to promulgate regulations to encourage the development of the commercial fisheries resources of the United States.

The Fishery Conservation and Management Act of 1976 (FCMA) expresses support for a national program for the development of fisheries which are underutilized. The NMFS is engaged in such a program and has been promoting the develoment and strengthening of the domestic fishing industry. The NMFS began this program under the authority of the Saltonstall-Kennedy Act of 1954, and the Fish and Wildlife Act of 1956. While the FCMA reiterated the intent of Congress as expressed in these Acts, it did not expand the fishery development authorities therein.

The intent of Congress is to support, more actively, the development of the underutilized fishery resources of the United States. Accordingly, the NMFS, on the recommendation of the Department of Commerce Task Force on Fisheries Development, is preparing draft legislation that can be introduced in Congress to firmly establish a fisheries development policy. Such legislation, if enacted into law by the Congress, would provide the focused authority for the NMFS to support the development of the fisheries resources of the United States. We will continue our support of efforts to develop these fisheries resources under existing authority until Congress specifically authorizes an increased role for the NMFS.

NOAA believes that the preference of the U.S. industry to the fishery resources of the U.S. 200-mile fishery zone is well-known both in this country and elsewhere in the world. We perceive no additional benefits than might result from issuance of regulations announcing the preference. Foreign nations have been informed clearly by representatives of the Departments of Commerce and State that the United States opposes any trade barriers or unfair competitive practices which operate to disadvantage the U.S. fishing industry's efforts to develop our nation's fisheries.

Sincerely yours,

MARTHA O. BLAXALL,
Director, Office of Utilization and Development.

[Pacific Fishing, April 1980]

FROZEN FISH VERSUS COLD WAR MARINE RESOURCES ROOTS FOR DÉTENTE

"This year we may become the largest fish processor on the West Coast" predicts Wally Pereyra of Marine Resources, Inc. (MRC), and this is modest as his goals go.

Vice president and general manager of the Russian-American joint venture, pereyra predicts a future for the firm as a trading conglomerate, "the Mitsubishi of the United States."

But first he'd like to see all Soviet-Americans relations as cordial as those between the Americans and Russians currently catching and processing cod and pollock in the Bering Sea.

Pretty tired of hearing the venture maligned as a giveaway of American fish to the Russians, Pereyra explains that some day it's entirely possible Marine Resources wil be processing its fish on American floaters or even in shore-based plants, but that right now, with a high percentage of the Soviet's vast high seas processing capacity idle and no U.S. capacity, "it just makes sense" to lease a Russian ship for present operations.

Only ten percent of Marine Resources production is marketed in the East Bloc, Pereyra explains. This year MRC will sell frozen blocks, headed and gutted fish, and fish frozen in the round to customers all over the world.

Total production could reach 50,000 tons in 1980 from the Bering Sea bottomfish operation and a repeat of last year's successful Pacific whiting venture off Oregon.

Political interest in Marine Resources' operation has been increasing, Pereyra notes in a bit of understatement.

In March he was called to testify at a hearing of the U.S. House of Representatives' Merchant Marine and Fisheries Committee. Other witnesses included two of the fishermen who have worked with Marine Resources and want the option of continuing.

In January, the Pacific Fishery Management Council approved a resolution asking the government to call a halt to the Oregon operations of the joint venture in response to the Russian invasion of Afghanistan.

Pereyra calls this "an over reaction, a case of wanting to throw the baby out with the bathwater."

In fact, he says, "All we're doing is using a foreign vessel to support an American fishery because there's no alternative right now. Once the fisheries we're in are fully utilized, we'll be phased out of them."

Government involvement is nothing new for the joint venture, but previously it was the Soviet government which was most involved.

Jim Talbot, MRC founder, spent three years setting up the deal with the Soviets before Marine Resources was incorporated in 1976. It took 18 months before his first letter to the Russian Ministry of Fisheries even got an answer.

The venture is formally a 50–50 partnership between Bellingham Cold Storage and Sovrybflot, a Soviet public corporation.

Marine Resources offices are in Seattle and Nahodka. Pereyra shares managerial duties in Seattle with Valery Latishev, a Russian whose residence visa was traded, at a governmental level, for similar permission for MRC to set up shop in Nahodka, a bustling port with a population of 150,000 but only circuitous transportation links with the rest of the world.

Nahodka can be reached by travelers via a two-day cruise from Yokohoma, Japan, or a 14-hour train ride from Khabarovsk, which can be reached by twice weekly flights from Niigata, Japan.

Nahodka manager Jim Allison is one of an enthusiastic group of youngsters recruited by Pereyra through the University of Washington's Department of Slavic Languages to represent MRC.

Actually, the language barrier isn't as critical as it might seem for MRC's English speaking staff. In the Bering Sea, good will often takes the place of words.

MRC's operations manager Phil Fuller recently returned from ten days visiting the catching and processing operation, and cites pleasant, if somewhat silent rummy games with Russians, Danish and American players and the sharing of information about fishing techniques as evidence that people and fishing can supersede politics and language.

Conditions for the crews of the Russian vessels, he says, are very comfortable. The processing crew works a maximum of eight hours a day and are well rewarded for their long stretches (up to five months) at sea. "They get a bonus for working in the far east, a bonus for going to sea, and a bonus for meeting or exceeding production goals," Fuller reports, and many plan to do this sort of work for five or ten years and then to settle down to a life on shore.

When rough weather hits the Bering Sea, the American fishing boats run for cover, usually to Dutch Harbor, but the Soviet processors have to ride out the storm at sea. They have to give 14 day's notice if they want permission to enter a U.S. port. "The weatherman can't usually provide that much notice," Pereyra observes.

Each of the Soviet ships is equipped with a doctor and small hospital. An injured American crewman from the *Great Pacific* had reason to be grateful for this fact. He was treated by Russian medical personnel aboard the *Sulak* after a shipboard accident.

There's some degree of flag waving and political indoctrination activity evident among the Russian crews, Fuller says, but it's not obtrusive. "They really feel that what they are doing is good, providing food for the people," he says.

Right now seven American trawlers are catching fish in the Bering Sea for Marine Resources and delivering them to four 270-foot processing vessels. The giant 570-foot *Sulak*, which had been handling the processing, left for maintenance in Singapore in February and was replaced by four smaller boats, the *Nadezhinsk*, the *Ugolny*, the *Piscatel* and the *18th Congress*.

The *Sulak's* crew of 260 was dropped off for a well-deserved rest in Nahodka, their home port.

From June to October, Pereyra expects 15 American boats to participate in the Pacific whiting fishery off Oregon and Washington, up from 11 last year. He anticipates a production of 18 to 20 thousand tons of bottomfish from the Alaskan operation and up to 30 thousand tons of whiting.

Another Bering Sea experiment using five boats to catch yellowfin sole may begin in June.

In addition to the boats currently fishing for MRC, *American No. 1, Viking, Oceanic, Royal Atlantic, Ocean Harvester, Neahkonnie* and *Great Pacific*, Pereyra reports that half a dozen more have asked to sign on. Next year the company may mount a larger operation. "This is an experimental year," he stresses.

The Pollock blocks produced by Marine Resources are primarily intended for the U.S. market, according to MRC's Dave Galloway.

Last year MRC marketed some blocks produced aboard the *Sulak* from fish caught by Russian vessels. This year, MRC would have used both foreign and domestic catchers if the political situation hadn't led to cancellation of the catch allocation they had counted on for Russian vessels.

Galloway says blocks could eventually represent 10 to 15 percent of MRC's production.

MRC is interested, Pereyra says, in the possibility of brokering fish for other processors through the freighters which regularly off-load MRC's own production and transfer it to Nahodka for cold storage and sale.

He stresses that present or future totally American bottomfishing efforts shouldn't be considered as competing with Marine Resources. "They're not competing with the joint venture; they're competing with the world market," he points out.

MRC's chief advantage, Pereyra says, comes from economies of scale: because of their volume they can price their product competitively on the world market. "We are," he declares, "100 percent dedicated to low value, high volume species. Any such species up there (in Alaska) is a target species for us." They've been surprised to come across a small resource of Atka mackerel, for example, which they've begun to exploit.

One advantage of the underutilized species, Pereyra says, is that their prices are relatively constant, free of the ups and downs which characterize higher value species.

A $500,000 sideline for MRC in 1979 consisted of support and resupply for the Russian fishing boats, providing them with fresh shipments of produce, heavy on dill weed, garlic, onions, potatoes and beets. This year, though, this aspect of MRC's business has essentially dried up.

Other, more ambitious, plans are "in a hold pattern" at present, as well. Among them is a propose repair facility for Russian ships in Seattle, with Russian crews flown in and out from Vladivostok; a wholly owned cold storage facility in Nahodka, and further expansion into a vast diversity of eastern Russian products other than fish—coal and timber, for example.

Although he laughs when asked if he sees himself as the Armand Hammer of the fishing industry and says he only wishes he were making as much money as that oil magnate and pioneer in Russian-American friendship, Pereyra clearly has high hopes for MRC's future.

"There is," he says, "a tremendous commonality" between the United States and Russia, and building the bridges of dependency is sure to make for a better world."

[Business Week, May 19, 1980]

THE DEEP WOES IN NORTHWEST FISHING WATERS

In the frigid and remote waters of Bristol Bay, Alaska, the largest salmon run of the century is expected to begin in June. So large do Alaska Fish & Game Dept. authorities think the run will be that they will permit fishermen to catch 50 percent more of the spawning sockeyes than were caught last year, or about 37 million fish.

But even with this feverish activity in the waters north of the Alaska Peninsula, the North Pacific seafood industry is in trouble. In worst shape are the salmon packers. Because they pushed prices too high, they still have bulging inventories from last year's catch, and they are carrying the stock at painful interest rates. Moreover, the packers apparently have lost a large part of their most lucrative salmon market, Japan.

As a result, salmon packers have left a trail of red ink from the Bering Sea to Seattle to Tokyo. On May 2 the biggest of the independents, New England Fish Co. (NEFCO), ceased to exist. With $60 million in debts, it had filed for protection nine days earlier under Chapter 11 of the federal Bankruptcy Act, but its banks, to which it owed $17 million, and the state of Alaska refused to lend it money. The state legislature is currently considering a bill that would provide $75 million in aid to other imperiled salmon processors in the Northwest. Among these is Icicle Seafoods Inc., which, with NEFCO's demise, is now the biggest independent in the area.

ROTTING IN THE SUN

Even if such state aid staves off additional failures, however, the packers will not be able to handle all of this year's salmon catch. Theoretically, the banks could help by selling off NEFCO's facilities to other packers. But to help in June's run, the company's tenders that ferry the catch from fishing boats to the processors "should have been leaving for Alaska last week," says Peter N. Rogers, president of NEFCO just before it went under. Even if the company had not folded, this year's salmon run probably would have been too much for the Alaskan packers. During last year's smaller run, salmon rotted in the midnight sun.

The prospect of a much worse overload this year has prompted Alaska Governor Jay S. Hammond to ask the North Pacific Fishery Management Council, which Congress set up to oversee the 200-mi. territorial zone off Alaska, for permission to allow foreign processing ships into Bristol Bay to handle some of the fish.

Hammond discussed this possibility with the Soviets during a December visit to Moscow and, more recently, with German and Spanish companies. But the Fishery Council in late April shot down the idea. It will allow only foreign tenders, not foreign processors, inside the 200-mi. limit. Thus, the current plan is to use a flotilla of Canadian tenders to receive the fish and, in a Dunkirk-type operation, ferry them to Canadian and Alaskan processing plants.

The mere mention of foreign processors' taking salmon from this year's Bristol Bay run scares the U.S. industry. "If we allow foreigners in, they're going to take that fish and go directly to our Japanese and European customers with it," warns Lyle J. Johnson, owner of Seattle's Alaska Canada Fisheries Inc. "We'd be better off it we let the fish go up the river and worry about it when the fish come back four years from now."

But Alaska worries more that its fishermen will not have markets for their huge stocks than that its processors will have to face foreign competition in those markets. "I remember when the fishermen had to sit on the beach during the depleted runs of the 1960s because there weren't enough fish," says Charles H. Meacham, chairman of Governor Hammond's Bristol Bay task force. "The fishermen aren't going to understand it if we tell them to sit on the beach [now] because there are too many fish," says Meacham.

PRICES PLUMMET

Bristol Bay salmon are only the most pressing of a raft of problems for the North Pacific seafood industry. Prices of all its major products shot skyward in 1977-78, only to fall last year along the same trajectory as the Japanese yen. The prices of bottomfish, black cod, and halibut have plummeted. "Millions are being lost in halibut," says veteran Seattle fish broker Robert E. Dignon of Northern Products Corp.

The most spectacular bust has been in the market for herring roe. The roe is called kazunoko in Japan, where it is a highly prized caviar eaten mainly at New Year's and thought to promote fertility.

In 1979 a number of small Japanese companies tried to wrest control of the roe market from Hokusho Co., a fish broker, and Mitsubishi Corp., the importer, by outbidding them for fish caught in North American fishing grounds. Accordingly, the price in last year's spring fishery off Vancouver Island briefly reached an astronomical $5,300 a ton for herring with 10 percent roe content—a price at which a lucky fisherman might be able to pay off the cost of his boat in just one catch.

But the companies that bought the herring at these rates were not able to pass on the cost to Japanese consumers. The Japanese boycotted the product, leaving half the pack unsold. The result was the collapse in January of Hokusho, the largest bankruptcy in the history of the Japanese seafood industry, and a fall in roe herring prices at Togiak, Alaska, from $635 a ton last year to $200 a ton last week.

LUXURY CRAB BOATS

Even the market for Alaska king crab—a dish that has made the village and former Navy base of Dutch Harbor in the Aleutian Islands a top-rank U.S. fishing port—is in trouble this year. Fishermen sold the crab for a historic high price of $1.23 a lb. in 1978, but the rate broke to 86¢ last September. Falling prices now are most marked in Dungeness crab, found off the coasts of Washington and Oregon, and the Bering Sea snow crab.

The decline in prices has ended a rushing business in crab boats at Puget Sound shipyards. These 120-ft. boats were selling for $2.5 million each, routinely equipped with stereo systems, cassette television, microwave ovens, and, often, saunas—some of the same luxurious touches put into top-of-the-line, long-haul diesel trucks. Also halted by the troubles in the North Pacific fishing industry is the flow of Japanese equity into U.S. seafood processors, a flow that had been denounced in the Alaska state legislature as a foreign takeover. Before the crash, the Japanese were buying working control of many U.S. fish processors to guarantee themselves a supply of salmon and crab from within the U.S. 200-mi. zone.

"The Japanese were slapping money on the table when the yen was at 170 to 200 to the dollar," says a Seattle processor who has a joint venture with the Japanese. "They aren't now. There are Japanese-owned fishing processors that could be put on the block."

Still, veterans do not believe that the current disastrous conditions in the industry are permanent. "We seem to get into these things every four or five years when we get our price too high and our product doesn't sell," reflects Eugene A. Ruthford, vice-president of Icicle Seafoods. "Last year restaurants were taking salmon and crab off their menus because the price was so high. Now we're getting back to reality."

RECOVERY

Processors will try to patch up their income statements by considerably reducing the prices that they pay to fishermen. Instead of last year's Bristol Bay price of 80¢ a lb. for canner salmon and $1.25 for freezer fish, for example, processors expect that they may be able to buy both for a single price in the range of 35¢ to 50¢ a lb.

Moreover, at least part of the Japanese salmon market may snap back sooner than some bankers have feared. "Salmon is one of the best values for the Japanese housewife," admits a Japanese fish processing executive. "Consumption is very brisk now. We anticipate the inventory will be consumed in a reasonable time. We think that Japan could buy as much as 45,000 metric tons of U.S. salmon this year, compared with 35,000 tons last year, if the price is reasonable," But, the executive warns that "the Japanese market will not pay a high price any more."

That warning translates into longrange disappointment for the North Pacific fish processing industry. It will have good years again. But fish processors cannot count on the Japanese to provide the sort of market they provided two years ago, when prices reached alltime highs. Already, the Japanese are breeding salmon in their own hatcheries to supply part of their domestic needs. And they are also buying increasing quantities of salmon, as well as snow crab, from the Soviet Union.

Mr. **Furia**. Thank you.

My name is Edward Furia. I am an attorney and urban planner. I am here today representing Icicle Seafoods, an Alaskan corporation. With me is Lawrence Brodie, our special counsel in Washington, D.C.

Mr. **Breaux**. Did you have something I missed?

Mr. **Furia**. No. I was afraid you might——

Mr. **Breaux**. Oh, no, I can do three things at one time.

Mr. **Furia**. Thank you, Mr. Chairman.

Mr. Chairman, we are here today with a somewhat novel approach. Rather than come here to plea for special treatment for our client or our industry from this committee or from the U.S. Congress, we would like to ask this committee to take this excellent piece of legislation into markup and use just one criterion and one alone in deciding what to report out; that is, what would be in the best interest of the American people?

Let me state that another way; we are asking not that the committee figure out how to give a little piece of the action in this bill to each of the diverse splinter groups of the U.S. fishing industry, not to try to figure out how to come up with a compromise bill which in all likelihood, will not survive National Marine Fisheries Service attempts to avoid congressional intent, but instead to report out of the committee a bill which serves, first and foremost, the national interest.

There are two reasons why we have taken this approach. First, as we enter the decade of the eighties, an era of scarce resources and global competition for those resources, we do not think that America can afford to perpetuate unproductive industries. We do not think Congress should protect industries which do not contribute to our balance of payments and our world position in international trade.

We believe American industry management and labor alike must be productive if we are to compete in this new era.

Second, we think that if this bill is not clearly in the national interest, obviously in the national interest, that President Carter will heed the advice he is most certain to get from the State Department and the Commerce Department and veto this bill. And he would have every reason to do so.

I would like now to ask Mr. Brodie to summarize our written testimony, and then I would like a few minutes to sum up and then respond to questions and comments by the committee.

Mr. Brodie.

Mr. **Brodie**. Mr. Chairman, members of the committee, since the 1960's the U.S. share of world exports has dropped from 18 percent to 12 percent. This decline has diminished the strength of the economic position of the United States relative to the rest of the world, particularly to those nations which have increased their share of world trade, such as Japan and Korea.

Although the United States has a smaller share of the world economy, the National Marine Fisheries Service, the Department of State, and the Coast Guard are not managing our fishery resources in a manner which causes these resources to be used for the benefit of the Nation.

Legislation is necessary in large part because of the failure of the National Marine Fisheries Service to use the authority provided to it under the Fishery Conservation Management Act of 1976, and the 1978 amendments to the act, Public Law 95-354.

We have heard testimony of how the Department of State has continued to give our fish away. And yesterday and this morning, Chairman Breaux announced that the National Marine Fisheries Service calculated that foreign underreporting may be as great as 60 percent. In spite of this, the Coast Guard has announced cutbacks in the enforcement program. Our prepared statement documents much of this in greater detail and I only care to present one example.

On October 20, 1978, an interpretion of Public Law 95-354 was published by the National Marine Fisheries Service that was totally inconsistent with the law. Essentially that interpretation was that if vessels of the United States could harvest 10,000 metric tons of fish and U.S. fish vessels and processors had the capacity and intent to process 6,000 metric tons of that fish, a permit could nevertheless be issued to foreign processing vessels to process the full 10,000 metric tons of U.S. harvested fish.

The National Marine Fisheries Service engaged in the most audacious use of new math that probably has ever been attempted, 10,000 minus 6,000 equals 10,000. After considerable effort and expense, the U.S. fish processing industry was able to convince the National Marine Fisheries Service that 10,000 minus 6,000 does indeed equal 4,000.

This was not the end to the efforts of the National Marine Fisheries Service to avoid the law, and even today we are involved in a protracted rulemaking proceeding concerning the failure of the National Marine Fisheries Service to implement a North Pacific Fishery Management Council recommendation.

World production of fish has leveled off since 1970 which, due to population increases, has caused an 11-percent increase in per capita demand. While fishery resources are renewable, it is generally believed that the productive capability of the oceans cannot be expanded significantly beyond the present level of 65 to 70 million tons annually.

Therefore, it should be expected that the per capita demand for the high quality protein available from fish should be continually increasing. Domestic demand alone is expected to increase 80 percent by the year 2000.

The issue today is whether the United States will supply this demand or whether it will be supplied by harvesting and processing operations of other nations.

The scheme contemplated under the present law is to essentially control our 200-mile fishery resources so completely that the only access to the resource will be through U.S. citizens or corporations. We believe that those nations that need a supply of fish but maintain trade barriers that prevent U.S. corporations from exporting products to their nation do so because they are aware that under current law the United States does not effectively control the resource.

It was suggested by some witnesses yesterday that instead of using a stick, a carrot should be used—that is, reward those foreign nations that open markets to the United States by giving them an allocation of fish. This suggestion, in our opinion, perpetuates foreign fishing and is either hopelessly naive or an attempt to obfuscate the need for meaningful legislation that seeks to control our fishery resources effectively.

So long as foreign nations recognize that the control of our fishery resources is apparent but not real, foreign harvesting and processing operations will be perpetuated in our 200-mile zone. Only when this perception by foreign interests changes will there be meaningful commercial development as only then will foreign interests be willing to negotiate on an arm's length basis with U.S. fish processors and fishermen.

H.R. 7039 is a way to solidify the scheme set out in the law. It is an attempt to let foreign nations, investors and all others, know that the United States will control its fishery resources.

However, the legislation is weakened by the fact that the Secretary of Commerce can override the phaseout timetable by finding a surplus and continue to allow foreign harvesting and processing operations to take place in the zone. If past practice is any guide, we believe that the Departments of State and Commerce will continue to do as they always have, namely, give our fish away. Foreign interests that receive allocations from our zone know this as well as anyone.

These problems can be overcome by making the foreign fleet phaseout absolute rather than subject to congressional action for its effectiveness.

We know of no reason why foreign processing operations being conducted in our 200-mile zone should not be phased out along with foreign fishing. Congress has stated when it passed Public Law 95-354 that such foreign operations were to be terminal in nature and that the only manner in which the Nation would obtain the full benefits from our 200-mile zone resources would be if such resources were both harvested and processed by the U.S. industry.

Merely making the benefits of the capital construction fund and the title XI obligation guarantee programs available to the processing industry will not do the job. Many processors have sufficient net operating losses to carry forward into future tax years and will be unable to accumulate capital through tax deferrals in the near term.

Moreover, neither the capital construction fund or the title XI program convert a poor business transaction into a good investment. A Government guarantee of 87½ percent of the debt for a facility that cannot compete with foreign facilities 3 miles away would cost the investors the loss of their entire investment even if it were only 12½ percent of the project cost. And we all know that far more security than 12½ percent is normally required in any such financing by the National Marine Fisheries Service.

The goals of this legislation as to job increases and added productivity presumed that all U.S. harvested fish will be processed by the U.S. processing industry. If foreign processing operations are not phased out, there will be dramatic shortfall with respect to those stated goals.

For example, of the 40,000 jobs that are a goal of this legislation, approximately 28,000 would be due to the development of the Alaskan bottom fish fishery. If the Alaskan bottom fish fishery were to develop so that it were dependent on foreign processing operation instead of the U.S. processing industry, most of these jobs would not be created. No more than 2,000 jobs will be created. That is, over 85 percent of the increase in number of jobs will not have been achieved.

Obviously these jobs need not be lost. We support the phaseout of foreign fishing but believe that the U.S. processing industry is in no better position than fishermen in using the preference system to displace foreign operations from our 200-mile zone. If this change is not made in the bill, we believe that the legislation will not accomplish the goals and the industry will be back before Congress in a short period of time asking for further legislation.

It has been suggested that joint ventures open markets for the U.S. industry and should be encouraged. This flies in the face of reason and fact. Of what value would markets be to the U.S. industry if opened by the Soviet Union?

As a technical matter, sales from joint ventures are not exports from the United States. Therefore, any opening of markets by the U.S. industry still would require initiatives of the U.S. industry regardless of what the joint ventures do.

This past winter, Icicle created a market for its Pacific cod in Europe. And once this market was established, the Soviets sold essentially the same fish, but processed by Soviet vessels a mere cannon shot from the Icicle plant, into the same market. Just the opposite of what has been suggested is true. The U.S. industry opened the markets for the Soviets.

It also has been suggested that joint ventures can make an immediate market for the U.S. fishermen, and if phased out there would be no immediate benefits available for fishermen that have present harvesting capacity. Any foreign vessel can operate next to the shore of the United States, hire U.S. citizens as workers and comply with all U.S. laws and regulations and process fish. This type of operation could be set up immediately as the equipment exists and in many cases needs to be put to productive use and is allowable under U.S. law.

This is not done now as there are no incentives to do so. Such vessels could also be reflagged under the U.S. flag and continue to operate at sea but under our laws. The point is, these types of transactions are not established, as foreign nations know they can continue to control our fish at sea and continue to operate much as they have done in the past.

I believe Ed wanted to make a few comments in closing. .

Mr. FURIA. I would like to deal with several points made by the previous panel. Obviously, we have only had a few minutes to deal with them, so our comments will be somewhat disjointed.

A statement was made that the Soviet venture is self-liquidating. The fact is that joint ventures are growing. The manager of the Soviet joint venture, Wally Pereyra, is quoted—in a magazine article attached to our testimony—saying that by this summer the Soviet processing operation will be the largest processing operation on the west coast.

The only self-liquidation that I know of regarding a processing operation has been the recent bankruptcy of the New England Fish Co., a prior client of ours that left $60 million in debts. If anything, the joint ventures under present operation are proliferating.

Another statement was made that joint ventures should be phased out the natural way by natural economics. This is ludicrous. There is nothing natural about the economics operating with the Soviet venture in the Bering Sea; it is working exactly the opposite. To reiterate Mr. Brodie's point, this winter Icicle Seafoods operated a movable processing barge in the Bering Sea right next to a Soviet factoryship, and had to compete for the same stock of American fish in the 200-mile zone. Icicle had set up a market through Joint Trawlers, Ltd. in Europe. The Soviets came in and bid against Icicle with U.S. fish for the same European market.

The economics of a Soviet vessel has nothing to do with profit and loss. The captain of the Soviet vessel does have to go back to Moscow and show stockholders a good return on capital. That concept does not exist in the Soviet Union. The operation is totally subsidized; it is owned by the Soviet Government.

The State Department has testified before this committee that the Soviet operation is politically motivated. That was their testimony in answer to a question posed by this committee.

How can an American operation work side by side, paying $7 an hour, complying with minimum wage laws, and all of the other U.S. regulations, with a Soviet operation? The natural economics are that the U.S. operation will not continue to operate and that the Soviet operation will grow. At the present time, Icicle Seafoods is seriously considering terminating its attempt to enter the bottomfish market. In that event you will have nothing but the Soviet operation processing U.S.-caught fish in the Bering Sea off Alaska.

In another statement, Mr. Sharood testified that the present law is working just fine, thank you, that it provides a priority to U.S. processors. In fact, the National Marine Fisheries Service is not implementing that priority. Sharood says if ventures are an interim tool. Every indication is that they want joint ventures to be a permanent tool. He said it is not wise to mandate a phaseout of joint ventures. We submit that just the opposite is true; it is not wise to do anything else.

Let me return to the original point with which we began our testimony. In the wisdom of this committee, you may decide that the national interest demands—as Mr. Piszek, in his written testimony evidently will testify later—that the United States fishing industry stick to what it knows, that is, the fresh fish market. You may decide that U.S. fishermen should just catch fresh fish, and abandon this reckless idea of entering into underutilized fisheries, because their competitors are so heavily subsidized by foreign governments.

If that is your wisdom, then eliminate the phaseout provision of this bill. If, on the other hand, it is your view that Americans should eventually catch all the species in the 200-mile zone, then we say leave the phaseout provision in, because we feel that nothing less that results in the face of continuous National Marine Fisheries Service avoidance of the clear intent of the 200-mile law.

Again, you may decide that U.S. fishermen should catch all the fish, but that foreign interests in offshore factoryships should process this fish, that if Americans want to eat fish, we should buy the fish from these foreign factoryships and their foreign governments.

Again, this is precisely the concept that Mr. Piszek in his testimony suggests, that we continue to buy American fish caught by Koreans, taken to Korea, processed there, and sent back to Philadelphia for Mrs. Paul's Fish and Chips. He suggests that this is the appropriate way to go, and that this is helpful to the U.S. economy. Bear in mind that last year alone the net drain of U.S. dollars was $40 million just to Korea for block made from fish they caught in our 200-mile zone in Alaska.

If it is your decision not to have a processing industry—and we recognize that you may decide that, in your wisdom, it is better not to have a U.S. processing industry—then you should not phase out foreign processing.

If, on the other hand, you want a U.S.-processing industry, then we submit you must phase out foreign processing. These nations must be served with notice that their days are numbered with their factoryship operations in the zone. Only then do we believe that markets that have been closed to U.S. processors will open.

We would like to commend the chairman and the committee for the direct and candid approach to these issues which the committee has taken thus far. We would request in keeping with this direct and candid approach that whatever your decision may be about these issues, that you avoid the temptation to engage in empty rhetoric in the House report, or in flowery colloquys on the House floor about jobs, productivity in the fishing industry, et cetera, unless the bill will tend to actually maximize jobs, productivity, et cetera.

If you decide not to support a segment of the industry, I think it would be very much appreciated by the industry that you serve notice on them, rather than raising their expectations, and having them invest money which in the end will be lost.

In closing, I would like to refer to a question that Mr. Forsythe asked yesterday of Mr. Chapman. He asked whether it might be just as bad for U.S. fishermen to solely have a U.S. processor market for their fish, as it would be to solely have a foreign joint venture market.

As I recall, Mr. Chapman's answer was that joint ventures were attractive, but if the U.S.-processing industry could not survive the short term, and fishermen were stuck with joint ventures as a sole market in the long term, that it would not be as attractive at all.

We respectfully submit, Mr. Forsythe, that the question might have been posed in a different fashion, and that is, what would be in the best interests of the American people concerning who processes American fish. And we would ask that this be the criterion by which this committee address that question in markup next week.

Thank you very much.

Mr. **Breaux**. What is the position of Icicle with regard to the bill?

Mr. **Furia**. The position of Icicle regarding the bill is articulated in great detail in our written testimony which encompasses all of the sections of this bill.

On this particular issue that we chose to discuss today for lack of time to go through all of the issues Icide's position is that absent a phaseout of foreign processing and fishing, that the CCF and title II section of the bill dealing with the processing industry will not accomplish the goals that this committee has set out as the goals of the legislation.

To paraphrase, if you are an investor and you are looking at the processing industry as a potential place to put capital, even with the capital construction fund and title XI, Mr. Chairman, if the processing venture is a bad deal, a bad business deal, you do not go in to it merely because the Federal programs are available.

Mr. **Breaux**. What percentage of Icicle's business is in foreign markets?

Mr. **Furia**. What percentage of their sales?

Mr. **Breaux**. Yes.

Mr. **Furia**. I do not have a current percentage. It has been very, very heavy in Japan, as it has been for all the Pacific processors in salmon. But, as you know, the salmon market went soft last year because of very large inventories of salmon that the Japanese had on hand. And it is uncertan how much of the Japanese market will be reopen.

Mr. **Breaux**. If we phaseout the foreign harvesters and the foreign joint ventures, some people have testified very strongly that we really then run risk of hurting the foreign markets that we have.

What is your view?

Mr. **Furia**. I am sorry. There is a risk that what?

Mr. **Breaux**. I am trying to lower the tone. [Laughter.]

If we phase out the foreign harvesters and phase out the joint ventures, there are many who testified to the committee that we run a risk of not developing additional foreign markets or of even losing the foreign markets we have.

Mr. **Furia**. Our view is that quite the opposite is true. To the extent that foreign entities believe that they can acquire fish with their own fleets, it is convenient for them to foreclose their markets to us. The same is true for the foreign processors. To the extent that they believe they can obtain fish with their own factoryships or obtain fish through another nation's factoryships, why should they open their markets? I think the keystone of your bill, which we believe is the phaseout provision, is absolutely essential in order to have the intent of Congress in the original 200-mile law achieved.

The preference system by itself has not worked. Pure and simple. It has not worked. If you are a farmer and you produce 3 bushels of tomatoes a week and the farmer next door produces 20 bushels a week from the same plot of ground, who is going to set the market price?

In the case of fisheries, it is our piece of land, to extend the analogy. It is our tomato patch. We feel that foreign markets will finally open up if there is a clear phaseout of foreign fishing and processing, and if that is perceived by those governments. And we believe these markets will open very quickly.

Mr. **Breaux**. You make an interesting comment on page 23 of the testimony. You say in the case of bottomfish, the sole importer is the Japanese Deepsea Trawlers Association. The problem is that that association conducts its harvesting and processing operations in our 200-mile zone. It was interesting that Mr. Macnow in his testimony this morning, included a letter from the Japanese Association, bitterly complaining about our legislation.

Mr. **Furia**. They take over 2 billion pounds of Alaska pollock from the Bering Sea.

Mr. **Breaux**. And they are the sole importer for Japan?

Mr. **Furia**. That is correct.

Mr. **Breaux**. So whatever price they say, is it?

Mr. **Furia**. It is like giving General Motors the only license to import Hondas. Very little reason to import the competition.

Mr. **Breaux**. That is one of the things that the U.S. delegation, when they were in Japan, were concerned with and were turned down on. There is apparently little or no competition there, as your example cites.

Mr. **Furia**. The same is true of the Hokaido Fisheries Co-op, which is the sole importer of herring and the sole harvesting for Japan. No other entity in Japan may import herring in competition with the Hokaido Co-op which also catches herring.

Mr. **Breaux**. The joint ventures operating within our 200-mile zone really do not meet the same standards that a U.S. processor would have to meet. Is that one of the big economic disadvantages?

Mr. **Furia**. They do not, that is right. The analogy which may be helpful, and I am not familiar with Washington geography, would be to imagine that this building were a manufacturing facility of a certain product and that occupational safety and health rules would be complied with, EPA, environmental rules were complied with, minimum wage rules, et cetera, that this company in this building pays local, State and Federal taxes, et cetera. Then imagine a compelitor factory 30 city blocks away that pays no taxes, complies with none of those laws.

Not in the case of the Koreans or the Japanese, that is the situation. Korean labor is paid about 50 cents an hour. Comparable labor in America is $7 and with benefits as high as $10. With the Soviets, there is no way to compare our fleets because the decision of what price to charge for processing is purely and entirely political.

Mr. **Breaux**. Mrs. Paul's Kitchen says the Russians are really the masters of economics.

Mr. **Furia**. We saw that in their testimony ourselves. It seems to me the way to be the master of economics is to have economies be irrelevant. And in the case of any Soviet operation, it is irrelevant. The Soviets can literally subsidize their fishing industry with a Soviet tractor factory.

Mr. **Breaux**. What is your response to the argument often made on behalf of the U.S. fishermen, however, that the competition that is provided by joint ventures helps to protect their industry in giving them a better price perhaps and a market for their fish which might not be otherwise available, and are necessary when the U.S. processing industry cannot meet the capacity that is required by the harvest?

Mr. **Furia**. Well, there is no question that in the short term, if I were a fisherman, I would want the greatest number of markets possible. There is no question about that because you can play one market off against the other. You can say I will not sell to you, I am going to sell to the Soviet venture and get a higher price. But that only works so long as the U.S. processing industry continue to exist.

Mr. **Breaux**. Drive out the United States, and you replace it with a totally monopolistic system that determines what the price will be?

Mr. **Furia**. That is another point. Our Justice Department has found it very difficult to aggressively enforce U.S. antitrust laws with foreign entities. Recall the cases of dumping by Japanese television manufacturers. Our State Department has obviously asked the Justice Department to "go easy." If a foreign entity would engage in any anticompetitive activity or predatory business practice, the ability to use our antitrust laws is, I think, severely limited.

But apart from a purposeful, intentional anticompetitive activity which might be reached by antitrust laws, there is the mere lack of competition in and of itself. I mean apart from any conspiracy to fix the price at a lower point. The fact is foreign factoryships can leave any time they want.

Mr. **Breaux**. Suppose we take out the foreign joint ventures. They tell us that the Alaskan processing operations are now 80 percent Japanese-controlled by debt or equity. So if you take out the European joint ventures and processing and all the other ones that may exist, you really would end up with a processing operation in and around Alaska which would be 80 percent Japanese-controlled anyway.

Mr. **Furia**. There are several answers to that. First, Mr. Brodie and I have appeared before this subcommittee and the Senate Commerce Committee for 4 years to request legislation to limit foreign investments to 25 percent in the U.S. fishing industry. Since the Congress has decided not to do that, not to limit foreign investments, you are left with a situation where anyone can invest in any company. That is a decision the Congress has made.

In the case of our client, they are 80 percent owned by Alaskan citizens. Fifty percent of them are fishermen. The rest of the stock is owned by employees of the company. There is one stockholder who is not American and that is a Japanese citizen who works in the Tokyo office who owns 2/100ths of 1 percent of the stock. That is because all employees own a piece of the company.

Second, if you did end up with more investment in the industry, the fact is that you would still have American citizens working in those companies, you would still have full compliance with U.S. rules and regulations. It is to us unfortunate that these kinds of actions by Congress did not occur earlier and perhaps that some investment limitation did not occur.

As to our present client, as I said, they are not only 99 percent U.S. citizen owned, but half of them are fishermen.

Let me get to another point which is relevant to your point and a point Lucy Sloan made. We wholeheartedly support the idea of U.S. fishermen using the CCF moneys they have accumulated to acquire processing facilities. That is the way Icicle began. They did not have the CCF program, but it was begun by fishermen who bought a company that was about to go down the drain, so to speak. If that were to occur, if the CCF program were available and a group of fishermen were to acquire, for example, the assets of the late New England Fish Co., those fishermen, now a processing company, would be in competition with the Soviet joint venture.

Again it seems nearsighted not to phase out those joint ventures. The point is although the U.S. processing industry maybe 80 percent Japanese owned now, we only have a small fraction of the processing capability that would ultimately be needed if we caught and processed all the fish in Alaska. The growth in the industry could occur through American investment if American financial institutions saw a clear intent by the U.S. Government to have that industry developed as an American industry.

The combination of the phaseout plus the capital construction fund and title XI, we believe, would cause that very large new increment of growth to be American growth.

Mr. **Breaux**. Mr. Forsythe?

Mr. **Forsythe**. Thank you, Mr. Chairman.

And thank you, gentlemen. You represent just the Icicle Corp.?

Mr. **Furia**. That is correct. Our former processing client is now bankrupt.

Mr. **Forsythe**. Sorry about that.

Your main thrust is the phaseout of joint venture processing. That is an absolute, total phaseout, without any rollover provisions if there is surplus available that can be processed?

Mr. **Furia**. That is correct. We are suggesting a phaseout, essentially the same sort of phaseout as is proposed for the harvesting segment of the industry. The reason is that it does not seem that anything less than that message communicated by the Congress to these foreign nations will work.

Mr. **Forsythe**. Therefore, if there is a surplus, you delay the phaseout until the U.S. processing industry can absorb the total?

Mr. **Furia**. No, on the contrary. Quite the opposite. What we are suggesting is that foreign harvesting, and foreign processing activity be phased out on a mandated schedule.

Mr. **Forsythe**. In spite of the ability of either the harvesters or processors to handle the whole resource?

Mr. **Furia**. Yes. And the reason is that we believe that that mechanism will produce a situation where no surplus will occur, while an open-ended situation will produce more of what we have had for the last 4 years, and that is National Marine Fisheries Service and State Department avoidance of 200-mile law intent.

Mr. **Forsythe**. It might be pretty strong medicine.

Mr. **Furia**. It might be just the medicine needed.

Mr. **Forsythe**. You know, we think we have educated the States a little bit. I think it was said yesterday that we look for an awful lot out of the 200-mile bill.

Maybe we are looking too fast.

Mr. **Furia**. I was interested this morning, Mr. Congressman, that in the interchange between the chairman and Mr. Macnow, that it turned out that if you removed the 3-mile area value that was exported by the United States during this 4-year period, that you ended up with a 2-percent growth in value exported.

Now, if you take into account either the cost of fuel or inflation, that amounts to a net reduction of U.S. fishery exports over the last 4 years. So the effect of the 200-mile law has been a reduction in value exported of U.S. fish products. So what you are faced here with is the 200-mile law that just is not working. It just has not worked.

You have American fishermen not meeting boat payments, you have American processors going bankrupt, you have a very, very poor prospect without change in the legislation.

Mr. **Forsythe**. Well, thank you.

Thank you, gentlemen, and thank you, Mr. Chairman.

I think we hear you loud and clear.

Mr. **Furia**. Thank you very much.

Mr. **Breaux**. Mr. de la Garza?

Mr. **de la Garza**. No.

Mr. **Breaux**. Mr. Hughes?

Mr. **Hughes**. No.

Mr. **Breaux**. Mr. Trible?

Mr. **Trible**. I have no questions.

Mr. **Breaux**. Our next panel will be Luie Fass, Fass Bros., Inc., accompanied by N. F. Jackson, Jackson Seafoods, and Jeff Reichle, Lund's Fisheries.

I would just say that your testimony will be included in the record in full.

STATEMENT OF A PANEL OF ATLANTIC FISHERIES ASSOCIATION CONSISTING OF LUIE FASS, FASS BROS., INC.; N. F. JACKSON, JACKSON SEAFOODS; AND JEFF REICHLE, LUND'S FISHERIES

Mr. **Fass**. Mr. Chairman and members of the subcommittee, my name is I. Luie Fass, and I am here today representing the Atlantic Fisheries Association.

The Atlantic Fisheries Association is headquartered in Hampton, Va., and represents over 400 large oceangoing fishing vessels operating out of ports from North Carolina to New York. Our membership is very concerned about the enormous problems besetting all segments of our industry today, and because of our deep concern, we are most appreciative of the opportunity to appear before you today to comment on H.R. 7039, the American Fisheries Promotion Act.

We at the Atlantic Fisheries Association have carefully studied the bill, and are convinced that, while it will not solve all of the problems which face the fishing industry, it is by far the most important piece of legislation yet introduced. It will be of great help to us and our beleaguered colleagues in the industry.

The fishing industry is composed of men and women who have always been proudly independent. We have a history of standing on our own—facing the problems we come up against independently, and finding ways, ourselves, to solve them. This is a stance which is hard to abandon, but we have come to see, in the past year, that the events which have caused the current crisis in our businesses are beyond our control. They are of such magnitude that we must ask for a union of industry and Government working toward responsible and responsive action, in order to maintain that independence which is so dear to us.

Of the many disaster proportioned problems which confront us, the highest on the list is the spectacular rise in the cost of fuel—an increase of 600 percent since 1973. In Virginia, fuel costs have increased in the past year alone, from 46 cents to 95 cents a gallon.

Mr. Chairman, these drastic fuel price increases are not restricted to our area alone, but are being experienced by the entire fishing industry of the United States. And we, unlike so many other industries, are unable to pass this cost increase on to the consumer, due to heavy foreign competition bringing relatively inexpensive product into our domestic market. To cite a not unusual example, the exvessel cost of scallops a year ago was $3.05 per pound. Today's exvessel cost is $3 per pound—a decrease of 5 cents a pound, during the same period that a single gallon of fuel increased by 49 cents.

We must have help, and the American Fisheries Promotion Act, if passed, will provide that help. It provides the assistance we need, for the sake of our very survival—and therefore, for the sake of the survival of our Nation's economy. For as the members of the subcommittee well know, our fisheries are not currently developed to anywhere resemble their fullest potential. With the assistance given to the fishing industry in this bill, there exists the possibility of the creation of 40,000 new jobs; more than $1 billion a year can be added to the U.S. economy; and the U.S. trade deficit can be reduced by almost $2 billion—and all of this is a realistic goal to be met by the end of the 1980's.

While the Atlantic Fisheries Association supports this bill as it stands, there are a few suggestions which we would like to put forward to the subcommittee which we feel would strengthen the bill even further.

We propose a 5-percent across-the-board tariff be instituted on all products imported into the United States, and moneys obtained thereby be put back into fisheries. It is the hope of the Atlantic Fisheries Association that the subcommittee will bring also in section 211 the title guarantee program for the rollover and crossover of funds from one subfund to another, thus insuring that no moneys will be left unexpended when the need for them is too great in all areas.

With these changes, it seems to us at AFA, the bill will only be strengthened and clarified as to the intent of Congress on this vital issue.

We hope the subcommittee will give our proposal full consideration, and ultimately decide to adopt it.

In closing, we wish to make one final point. In listening to the testimony by various Government witnesses on May 6 regarding this bill, we were shocked to observe the almost willful closing of eyes to the monumental problems facing the U.S. fishing industry by those who are in a position to know the whole picture best.

Richard Frank, Administrator of the National Oceanic and Atmospheric Administration, was a particular disappointment to us in the fishing industry, as it would seem to us that he should be one of the major supporters of this piece of legislation. Mr. Frank knows what we face. He knows that we must have help to survive. He knows the urgency of our situation. Yet he, while admitting that he supports the objectives of the bill, opposes the means by which these goals would be achieved. But he offers no alternatives. Mr. Frank, instead, suggest studies be undertaken, and task forces created.

The fishing industry has no time for task forces and studies by NOAA. We need help, and we need it now.

H.R. 7039 can provide that crucial assistance, and we urge that the subcommittee expedite passage of this legislation from the subcommittee to full committee to the floor of the House and Senate, and ultimately, into a law that will revitalize the fishing industry, and the economy of our great country.

Mr. Chairman, we thank you for your attention. I will be happy at this time to answer any questions that you and members of the subcommittee may have.

Mr. **Breaux**. Thank you very much, Luie, for your excellent comments.

We have a conference report we have to vote on. I think it will be the last vote. We will catch that vote and return to hear the rest of the testimony.

The committee will be in recess.

[Short recess.]

Mr. **Breaux**. The subcommittee will please come back to order, and we are pleased to receive the next witness' statement.

Mr. Jackson?

Mr. **Jackson**. My name is N. F. Jackson. I run a family seafood business and fleet in Newport News, Va. I was raised on the Gulf of Mexico, a third generation seafood producer.

My family used to be engaged in the harvest of shrimp in Rockport, Tex. My father and brother and I thought we saw in the enactment of the FCMA in 1976 the opening of a new frontier, and with that in mind, we felt that in this effort on the east coast to diversify, not wanting to put all our eggs in one basket, that we designed and built a fleet of combination trawlers. By combination trawlers, I mean those capable, because of their design and equipage, to harvest a variety of species.

I would like to say that all the new vessels being built and put into service on the east coast, most all of them, are combination vessels, with the capability of harvesting a variety of species. We have new vessels on the drawing boards which are designed to harvest even more varieties of fish and other maritime life.

I believed, when I came into the business, and came to the east coast, that we in the fishing industry were in the most exciting move in U.S. commerce that we have seen in this century. I am still excited, and somewhat awed, because as you have heard testified today and yesterday, I know that America can feed the world with the most protein-rich foodstuffs available.

Because of circumstances of the last 6 months or so, I now doubt very seriously that America will ever fulfill its promise, its promise contained in its seas. The U.S. seafood industry, I believe, is in imminent danger of extinction.

The shrimping industry has already witnessed, and testimony has shown are now witnessing the horrible specter of death. The reasons for our extinction you have heard described. They are not mysterious, they are, rather, insidious. The reasons for these things bear full scale investigation, but it has been mentioned time and time again, we do not have time right now to examine the broad scope of the problems, nor the even broader scope of solutions.

What we have got to have right now is, as Mr. Utz has said in his analogy, a temporary life support so that we can survive and make it to the operating room and surgery. If we do not have some kind of immediate lifegiving support, the industry will fail. It will collapse.

The gulf may be gone, it may be too late to resuscitate. We on the east coast, and our brethren on the west coast, are involved now in a race to see who will be next. We have got to be given the chance to fight to survive and lick the problem.

I, too, have suggestions and thoughts concerning specific portions of the bill which you have proposed. I concur with most all of them. If I thought that my suggestion as to amendments or modifications would slow down the passage, I would refrain from voicing them. But at this late hour, tonight, what is another 2 or 3 minutes? So I will do them anyway.

With regard to section 101 of the bill, where it provides that the Secretary will receive request funding applications during a 60-day period, I question why only 60 days. As part of the National Federation of Fishermen testimony stated, we are in a rapidly developing industry, and technological procedural innovations can evolve overnight.

If we are limited in our funding request to a 60-day period, you will note in my testimony that it could take 455 days for our suggestion for funding for what could be a lifegiving, lifesaving revolution in procedures or technology—taking 455 days before it could be granted.

We strongly urge the committee's consideration of a longer period during which we the industry might be able to submit requests for funding.

Also with regard to section 101, you will note that 25 percent of the available funds are restricted to the exclusive use of NMFS for Government-initiated projects. I suggest that this is not very efficient, when that 25 percent could be stretched with private dollars. There might be duplication if the Government had to use that 25 percent.

And by the way, it says "shall" be used. Twenty-five percent of the funds "shall" be used. They must be spent, even if it is not a very good project. I would suggest that some kind of language be attached to the legislation which would provide a minimum of 75 percent shall be made available to private industry, leaving the potential for 100 percent of the funds to be used as matching funds for private industry, if there were sufficient number of qualified projects.

Regarding section 202——

Mr. **Breaux**. May I make a comment on that point? The reason we have it "shall not be more than 25 percent" is because we want to make sure the money is spent on fish-related projects. I do not want OMB to spend this money on endangered species, or administrative costs, or what have you. So we are trying to say not more than 25 percent. It could be 2 percent. But whatever the amount is, it shall be spent for these projects.

And that is to try and insure that no other department of Government could come in and sever off some of the money for uses unrelated to fishing proposals.

Mr. **Jackson**. Do I understand that no more than 75 percent may be used to match private funds?

Mr. **Breaux**. Not less than 75 percent.

Mr. **Jackson**. Thank you.

Moving on, if I may, Mr. Chairman, to section 201, what is described as the at-sea processing vessel. I would recommend that the language which describes that vessel dovetail with the language which describes the shore-based facility. I believe the language says vessel used at sea for processing. I would recommend that we also include in that description a vessel which is not only used at sea for processing, but to include a vessel which might also store products, pending processing, and after processing, pending distribution.

A strict reading of the language as it exists now might say that if you had a multi-purpose vessel, one possessing the processing portion, if it did something other than processing, it might not be eligible. It may be a fine point.

Looking at section 212, which is the loan program, specifically applicable to those of us in the industry who are in imminent danger of going down the tube, I, too, concur with most of my brethern who would suggest that it should be made available across the board.

The fuel crunch has hit us indiscriminately. The privately financed vessel is not less susceptible to the crunch.

Looking at section 302, the permit fees, this may be defined elsewhere in the parent statute. But if the permit fee is to be determined on a basis of the value, the ex-vessel value of the catch, I question at what port. Is it the value of that product if landed at the nearest U.S. port, or is it the value of the product landed at who knows what other port?

Something that is not in my testimony, but came to mind in listening to the National Federation of Fishermen language concerning "let us not put a timetable on a phaseout of joint ventures, because we cannot predict," I would suggest that putting a loan period limit to 1982 on this funding, we are no more able to predict when the need for the funds will expire than we can predict when joint venture should be phased out.

I would suggest that the authority to loan funds for these operating differentials be enacted without a timetable limit. They could certainly be ceased in the future once the need for them had expired. It is awfully hard to reenact it once it has expired by a specific terminating clause.

In closing, I reiterate the things I have said. This bill does not address all the problems, it does not even address many of the solutions. But without it, there is absolutely no hope, period.

Thank you.

Mr. **Breaux**. Thank you.

Mr. **Reichle**. Mr. Chairman, thank you for the opportunity of allowing me to speak today in support of the American Fisheries Promotion Act. I am speaking today on behalf of my company and also as a member of the Atlantic Fisheries Association.

The American Fisheries Promotion Act is a vital necessity to the U.S. commercial fishing industry. Since the FMCA was passed in 1976, it seems that our Government has used our fish stocks as a bargaining point in international negotiations. This attitude will do nothing to assist our industry in becoming the largest seafood producer in the world. It is time that our Government realizes that the U.S. fishing industry, if given the chance, has the potential of creating a large number of jobs, reducing the trade deficit, and helping the economy in general.

Congressman Breaux, you have done your research very well. The American Fisheries Promotion Act deals with most of the major obstacles facing our industry today. However, we would recommend a few additions such as:

One, expand title XI guaranteed loans to include the purchase of used hulls. This would nudge the industry to construct processor freezer trawlers and——

Mr. **Breaux**. Mr. Reichle, on that particular point, the reason why I interrupted, I think it already does. The amendment of the bill would allow the use of title XI funds for the purchase of a used hull.

Mr. **Reichle**. Thank you.

Two, make fisheries loan funds available to boat owners that are not using title XI benefits, include all vessel owners on an equal basis with preference not given to owners who may specifically about to default on title XI guaranteed loans. We feel all cases should be viewed on an individual basis of need with preference given to no one group.

Further, we believe these loans should be available to cover general operating costs.

Three, we suggest also that the Capital Construction Fund for shoreside facilities should be retroactive to January 1980. That section provides the means for encouraging expansion of the fishing industry, and we hope that the subcommittee will agree that those individuals who have already attempted to assist our industry by taking such measures be rewarded for the courage and forethought by being made eligible for this assistance and not penalized.

Mr. Chairman, this concludes our statement to the committee. If you or the other members of the committee had any questions, we will be happy to answer them.

Mr. **Breaux**. Thank you very much for your presentation.

I was impressed with the fact that you noted the position of the administration in opposition, Luie. I do not know if you noticed the comments we made. That is consistent with their opposition to all development programs. But I am hopeful we can submit a package to the President which will provide a number of real steps for fisheries development that can be accomplished without any increases in taxes or expenditures on the part of the U.S. Treasury. It can be accomplished with an increase in fees on foreign fishing.

I really think that if that type of package hits the desk of the President with the support of the industry, we are going to get something like that signed.

I would really urge you and everybody else that we just do not want your support only at the hearings, but to follow this with us through the whole process.

So you make a good observation. But we are going to keep pushing away, and with your help, I think we are going to get something accomplished that will be meaningful.

I think, Mr. Jackson, that a couple of the points you have made really are subject to various interpretations. I think some of the things are as you would like them to be in the bill right now with regard to the purchase of used hulls, for instance, and some of these other things. So I think we have the same common goal.

Mr. Trible?

Mr. **Trible**. Thank you, Mr. Chairman.

First, let me say it is a pleasure to have the panel testify here today. I thank you for waiting to this late hour to make this valuable contribution to the hearing.

Two of these gentlemen—Mr. Fass and Mr. Jackson—are distinguished Virginians who really need no introduction to those people interested in American fisheries. Their testimony today provides important insight into the problems facing the fisheries industry generally, and also furnishes something of the Virginia perspective and I thank you for being here today.

I just have two brief questions. Perhaps I should address these to Mr. Fass.

Luie, you have suggested a 5 percent across-the-board duty. How would you see these moneys used and what impact, if any, would this duty have on American consumers.

Mr. **Fass**. Well, I think, first of all, the funds are oriented toward the development of our fishery, I think they can overcome some—help overcome some of the problems that we have. And I emphasize that because I think without the funds generated by such a duty, I might not be so in favor of the duty. Because, Congressman, as you well know, I am a rather large importer of seafood products from all over the world myself. And it would certainly—I am as large as most on the east coast—and it certainly would affect me as much as anyone else. I think that truly the importer would and could absorb the difference very easily, as they are heavily subsidized industries in the first place.

And I have no doubt that the argument that we are going to pass that on to the consumer is a false one. In this case, I do not visualize that at all. I am not fearful of having the duty on products that we bring in. And probably 40 percent of our business, products from South America, from Japan, products from all over the world. Seafood products that we cannot presently manufacture ourselves, or that the price is so reasonable that it is a good buy for the American consumer.

We do not import a whole lot of foreign shrimp but, at the same time, in tonnage we do import a great deal of products.

I want to reiterate I am not in favor of a duty unless it can be passed back. As I visualize it, this is one of the methods of bringing some $200 million into the industry very quickly. And I would encourage the Congress to try to help us direct this thing through.

I think my colleagues in the domestic seafood industry are mostly very much in favor of such a thing.

Mr. TRIBLE. Is it fair to say then, there is sufficient differential between the cost of production in foreign countries and the sales price in this country to permit the absorption of that duty?

Mr. FASS. That is correct.

Mr. TRIBLE. The Fisheries Promotion Act links the allocation of resources in our own fisheries conservation zones with American access to foreign markets. I know you have explored the possibility of selling American products in foreign markets. What has been your experience in this regard.

Mr. FASS. Recently Jack Dickstrom, myself and Charlie Stinson from Maine, and Mr. Johnson from Castle and Cook in Seattle, in their Seattle office, several others, went to Spain accompanying Mr. Frank and Perry Lightsell and Dr. and Mrs. Blacksel. And they attempted to try to use the squid allocations that were available next year to help us penetrate the Spanish market, which we unfortunately have not penetrated. I do not think, frankly, that that was too successful, speaking to the Spaniards after they had left town.

I frankly do not believe that that is just the way it is going to be done. The Spaniards are a very proud seafaring nation, been doing it 700 years, and do not consider us a Nation that needs the sea products. We do not eat the sea products, they do. They just have a different attitude about it. They have 17,000 vessels. They are paying 40 cents a gallon and subsidized for diesel fuel. Millions of people employed in the seafood industry. It is simply important to the Spaniard to maintain a certain position. They have problems in getting their vessels anywhere in the world today. They are really concerned with their South African problem for them.

And I know for a fact that they did not make a great deal of money fishing the east coast of the United States this year.

We are concerned also that Mexico got licenses this year to fish squid off the east coast of the United States with the hope that we thought that would provide us with access to shrimp grounds in Mexico. It did not work out that way.

I like to bring this up because I think it is so obvious to me as an exporter. We are shipping out this week at least five containers to Europe. Two of monktail, two of scallops and it is 40,000 pounds, and one container of something else. I do not know which, but it was probably a mixed container. It is good business for us.

We have sold mullets to Kawait, we are selling bluefish to Venzuela. It is happening and I think it is going to develop, particularly up on the east coast, in the future.

As I said, Spain has a 30-percent duty on all imported products. Refused to talk about it to Mr. Frank and the rest. They have a license that you have to go—the importer has to buy, and they have not been available so easily. But the redtape the Spanish Government puts forth prevented all calamari, as they call it, coming into this country. As a matter of fact, some people say they have to have it produced on the sea. I have not heard that. In other words, Italy has been a better market for us.

Mr. **Breaux**. Will the gentleman yield on that point?

I am told that the Spanish are cooperating much more than you seem to be telling the committee, as far as making markets available and setting up joint ventures with American operations are concerned.

I spoke with the Spanish Ambassador to the United States about it. I got the impression we were making more progress than you seem to be indicating.

Mr. **Fass**. They have been to our plant twice. When I say they, the cooperative that operates 85 percent of the vessels. The people that took care of us in Diego when we were there. And they say they want to cooperate, they say they want to do things. But, as of yet, I have not had the indication that they are willing to put their money up where their mouth is. You very well might be true. And I know the Ambassador here was the Minister of Fisheries in Spain for a long time, a good friend of the industry, and I intend going to see him myself. I think he is the way to getting in there.

And I think they really want to buy from us or join with us, but it has been a difficult market for us.

Mr. **Breaux**. The positive signs we have been getting very recently.

Mr. **Fass**. Unfortunately, I have been in Washington the last 2 weeks.

Mr. **Breaux**. Thank you.

Mr. **Trible**. Let me just say that I share the gentleman's view that this legislation can give us a means of penetrating these markets more effectively.

Mr. **Fass**. I know what you are saying. And I think the bill, the Fisheries Promotion Act, there is no question in my mind when you tell these people it is a matter of years or indicate it is a matter of years, I think that the cooperation that Congressman Breaux is speaking of will not only happen today, it is going to happen in many, many instances where we are having a difficult time penetrating the market. There is no question in my mind it will happen that way.

Mr. **Trible**. We thank you for those comments.

Let me say in conclusion that the problems and possibilities of the fisheries industry in America are monumental. It is clear from these hearings and the discussions that members of this committee have had with representatives of the fisheries industry that legislative action is absolutely necessary. So I thank you for your contribution today and for your continuing contribution to the important dialog that is going on. And I hope that these hearings, long and painful though they might have been for some of the participants, will result in a legislative package that can be of immediate help. Certainly there is a bipartisan commitment to that end.

And I would only encourage you to continue your good work, to help us insure that a measure of relief is forthcoming.

Thank you, Mr. Chairman.

Mr. **Breaux**. Thank you, the gentleman from Virginia, for his comments also.

Mr. Hughes?

Mr. **Hughes**. Thank you, Mr. Chairman.

And I will be brief. The hour is right late.

I want to thank the panel for their helpful recommendations and their insight into the state of the fishing industry and for some of the insights they provided generally to the bill. I know my colleague from Virginia indicated he had three distinguished Virginians, and they are associated with a very distinguished New Jerseyian and we are happy about that. He represents a prominent fishing family in my own congressional district, and we are happy to have him here today.

I know you sat through the hearings all day, and one of the previous speakers indicated that he was concerned that by phasing out foreign fishing that we might deprive ourselves of access to foreign markets indefinitely.

Do you agree with that?

Mr. **Reichle**. No, Congressman, I do not at all. No.

Mr. **Hughes**. Did you hear that statement?

Mr. **Reichle**. Yes; I did hear it. And I talked to a lot of people about it, and a lot of my friends in the industry, I have asked the same question of. And I have not found one with any real experience in the foreign market that concurs with that statement.

Mr. **Jackson**. If I may, I would like to add one thing.

The statement was if we phased out, we will deprive ourselves of the market. We have not got a market now. What have we got to lose? It makes little sense to me.

Mr. **Hughes**. Jeff, you indicated that you would make the bill retroactive to January 1, 1980. Can you tell us how many different firms would be affected by that retroactivity? Do you have any idea, an assessment of how many firms have moved ahead without the benefit of the legislation?

Mr. **Reichle**. I am sorry, I could not give you a number. But I know there are several in New Jersey that have been expanding this year and in the past years. Maybe sometimes the way things are right now, we wish that we had not. But in New Jersey and Virginia and Carolina, there are many firms that have expanded at their own expense, and I feel they should be rewarded, therefor, by having the retroactivity.

Mr. **Hughes**. Even if that might take away resources from those who have not recognized the fact we do not have unlimited resources, we have the administration opposed to the bill. And if we make it retroactive, that will divert resources from new entrants.

Mr. **Reichle**. I do not quite understand how that would hurt anyone else, seeing that we would just have a tax deferral and eventually we would have to pay the money to the Government anyhow, unless I am confused.

Mr. **Hughes.** No. You are talking about some drain on the Treasury. OMB is opposed because every time you provide tax deferrals, that means additional drain to revenue from the Treasury. As you know, the administration is opposed to the legislation. And not the least of their concerns is the question of cost.

Mr. **Fass.** Congressman, if it would prevent the passage of the bill, we do not have any problem with it not being.

Mr. **Hughes.** I do not know that it would.

Mr. **Fass.** If you felt and Congressman Breaux and the others felt it could be put in, we would encourage it, because commitments to our industry have been made several years in advance. So moneys were spent by some of our members, and I am sure other sections of the country, people in the industry, commitments were made.

We started construction, and we wish we had not, but we have and would like to have those funds applied to those people that have made those commitments because they just happen to have started them January 1.

Mr. **Hughes.** I understand. My point is that we already have major opposition to the legislation, and we always run into problems around here making matters retroactive. That just further complicates the matter.

Mr. **Reichle.** We certainly do not want to hurt anyone. As Luie said, if it would slow the passage of this bill down in the least bit, we would be more than happy to drop that recommendation.

Mr. **Hughes.** Thank you. Thank you, Mr. Chairman.

Mr. **Breaux.** Gentlemen, thank you very much for your presentation, and we look forward to working with you until we get this thing signed into law. I am sure you will be active in that regard. We appreciate your help.

Mr. **Reichle.** Thank you.

Mr. **Breaux.** Our next witness and final witness for this afternoon, we would like to welcome Mr. Richard Baker, executive vice president of Mrs. Paul's Kitchen.

Mr. Baker, we welcome you and are pleased to receive your testimony.

STATEMENT OF RICHARD BAKER, EXECUTIVE VICE PRESIDENT, MRS. PAUL'S KITCHENS, INC.

Mr. **Baker.** Mr. Chairman and members of the committee, I am substituting for Mr. Piszek, president of Mrs. Paul's, who was required to go to Europe. So he asked me to sit in for him, and I appreciate this opportunity.

Our comments are made in connection with the section 301 of H.R. 7039. So the comments I give and will put in the record are Mr. Piszek's comments and will address themselves to that.

I do not represent a special interest group, I represent just the corporation. And I might say that I would like to think I represent the 220 million consumers in the United States because those are our customers and those are the ones that we are trying to serve as best we can.

Mrs. Paul's is an extremely large user of Alaskan pollock and cod as well as scallops, clams, and crab. The pollock and cod are purchased in frozen filleted block form. In the past 30 years in which Mrs. Paul's has been using frozen fish block, we are yet to buy our first block from a domestic producer and, to our knowledge, none of our competitors has purchased blocks from a domestic producer. This comes about because fish block is not produced domestically because of the economics of the situation.

On the other hand, we buy 100 percent of our scallops and 100 percent of our clam meat from domestic sources and almost 100 percent of our crab meat from domestic suppliers.

The 200-mile limit was instituted to protect our fishery resources and to develop further our own fishing industry. In our judgment, this legislation is excellent and, in the long run, will prove very effective and beneficial. The reason I am here today is that we are frightened by the prospect that foreign fishermen may be eliminated from U.S. waters by arbitrary means rather than by natural market forces.

We believe that because of the wages paid to the fishermen of Russia, Poland, Korea, Taiwan, and other countries, no domestic fishermen can effectively compete. It would take hundreds of millions of dollars to purchase the necessary vessels and set up the infrastructure required by U.S. fishermen to compete with the already well-established foreign fishing companies.

We must realize that Russia controls a tremendous reservoir of fish of its own in the Bering Sea. With Russia being the "master of economics," which they are, they would very likely enjoy seeing the U.S. Government develop a U.S. fleet to fish our areas and then undersell it and bring about a financial fiasco. We feel this could very likely occur.

Other countries, such as Peru, Chile, Argentina, New Zealand, and others are rapidly developing their fishing resources and are becoming a significant factor in the world fish market.

Domestic fishermen on all U.S. coasts are doing magnificently well in the areas that they are best able to compete, that is in the fresh fish market. Competing in the world market against well-established foreign fishing companies who pay a small fraction of the wages paid to U.S. fishermen would be futile. If the U.S. Government subsidizes the industry, then the consumers are the ones who are really paying the subsidy and when the consumers realize that such is the case, they will revolt against the cost, and rightfully so.

We bought fish block from Japan 10 years ago. Since then, their wages have gone up substantially, and are fairly comparable to those in the United States, and they can no longer compete in the world market in fish block. As a result, the fish they now catch is returned to Japan and is used in the domestic market.

We recommend that the U.S. Government continue and encourage more joint ventures between U.S. and foreign companies. We feel this is the route to follow since some of the joint ventures already established have proven to be extremely successful and of benefit to the U.S. economy and consumer. These joint ventures, we feel, are the best way of approaching a very complicated economic situation and is the more cost-efficient way at the present time of utilizing this important resource. There is no reason to gamble with a proposal that is extremely doubtful when successful joint venture operations have been formulated and are functioning effectively.

Thank you, Mr. Chairman. That concludes the comments that we had for the record. If there are any questions, I would be very happy to answer them.

Mr. **Breaux**. Thank you.

Mr. Baker, thank you very much. We are sorry that your president was not able to be with us. I have yet to meet him, but I would look forward to an opportunity to do so.

You say on the first page of your testimony that Mrs. Paul's has yet to buy your first block of frozen fish from a domestic producer. Has anyone in the United States ever offered to sell frozen fish blocks to Mrs. Paul's, and if they have, why were you not all able to work a deal?

Mr. **Baker**. In recent months, We have been approached by some prospective producers on the West Coast, in the Seattle area. They were talking about getting into the bottom fishery, and selling pollock blocks. We told them that when they get into production, and able to produce a product up to our standards, which is well known, and at world market price, not only will we buy from them, but give it preference.

Mrs. Paul's is a 100-percent American-owned company. We would like to see the industry developed. We would be happy to buy blocks, but have to buy at a competitive price.

Mr. **Breaux**. So the main reason, from a corporate standpoint, that you do not buy U.S. frozen fish blocks, is because it is not competitive?

Mr. **Baker**. That is correct. As far as I know, there are no Alaskan pollock blocks presently produced by an American processor that can compete on the world market.

Mr. **Breaux**. Maybe the reason is because no one in the United States wants to buy.

Mr. **Baker**. If it is a quality product, yes, but it still has to be a competitive price.

Mr. **Breaux**. So Mrs. Paul's position is, if a U.S. harvesting operation can provide it, you would give it preferential treatment?

Mr. **Baker**. That is correct.

Mr. **Breaux**. You mentioned that you expressed a fear that foreign fishing might be removed by arbitrary means, rather than by natural market forces. My impression of the bill is that the removal of the foreign fishing operations is linked to the ability of the U. S. fishing industry to take up the surplus. And if they cannot, there is a mechanism to allow foreign fishermen to stay in the 200-mile zone. I do not think that is arbitrary.

I wondered where you came to the conclusion that the bill would provide an arbitrary removal of foreign fishing.

Mr. **Baker**. It is by legislation mandating a certain percentage reduction, which I recognize can be reviewed. But it is my understanding—and please correct me if I am wrong—that the present legislation of FMCA provides that American fishermen have first call on the resource. In fact, in Alaskan waters, a sufficient reserve is usually held back by the U.S. Government to accommodate any expected increase in the harvesting capability of American fishermen.

So it seems that that would handle the situation effecively without any further legislation on this point.

Mr. **Breaux**. Really, the preponderance of the testimony is, in effect, that it is not working, and a key principle of FMCA is utilization of our resources by the U.S. industry. Industry has been telling us, as long as the foreigners are in Americans are not able to expand fully to utilize the resource. I wanted to point that out for the record.

On page 2, the statement says, "Domestic fishermen on all U.S. coasts are doing magnificently well in the areas that they are best able to compete, that is, in the fresh fish market."

Did you hear all the shrimpers from the Gulf?

Mr. **Baker**. I am not surprised by the comment. When I am talking about the fresh fish market, I am talking about the areas we have expertise in, and I mentioned those were the scallop, clam and the crab. And to my knowledge, the fishermen in those areas are doing well.

I realize there is a dislocation in the shrimp market right today, and that is caused by a number of different factors that have been brought up in testimony.

Mr. **Breaux**. Also, in salmon, probably in herring, I think we have that same situation. I am concerned. The drift of the testimony from your company is that we ought to let the natural market forces work. And I would be the first to say, I agree with that, you do not need Government intervention, if the world was like that.

We see $200 million in low interest loans by the Japanese Government to their fishing industry. I am not criticizing, it is just part of their operations. The Mexican Government allows the sale of fuel to its fishing industry at 17 cents a gallon. Poland is also heavily involved in its fishing industry. The Soviets have absolute control of the marketplace, and profit is not needed in that country.

So the natural market forces really do not exist, except in the United States, perhaps. And the U. S. fishermen and processors are having to compete against a market situation which is totally unnatural.

So to say that we ought to let a natural marketplace determine these problems, is unrealistic.

Mr. **Baker**. I think we are faced by the realities of the situation in the world, and the subsidies that certain foreign governments may give to their fishing fleets in one way or another, such as you have mentioned. We cannot change the ways those countries are going to operate. We have to accommodate our own activities to take that into consideration.

I recognize the desires of the fishing industry to further develop and expand. And we feel that they will on the long run. On the short run, we feel the economics are such that it cannot be. And in the meantime, we feel that the American consumer has to be protected because——

Mr. **Breaux**. Let me interrupt at that point. That is a mistake we made as a nation, with regard to energy. The idea was we could buy cheap foreign sources of energy, and did not need to develop our own source in this country. And then we became 60 percent dependent on foreign imports of energy. Then the foreign countries raised the price, and raised it, and raised it, and raised it.

And today, we are paying $60 billion a year for foreign energy. That same potential exists in the fishing industry. When we have a buyer from a foreign country who is the sole buyer, and determines the price, if we let that foreign country tell us what they will pay, and they have the only source, we are in bad shape.

Mr. **Baker**. I do not agree it is analogous.

Mr. **Breaux**. How about close?

Mr. **Baker**. No, I do not believe so. Because at the present time there is very little substitute for oil, for energy.

Yes, there is coal, but a lot of restrictions on its use. But with fish, there are many other sources of protein. And that is the thing we are concerned about, that we will throw this entire thing out of balance.

In other words, fish is a reasonably priced source of protein. You might take a specific example of a pollock block. The world market is 68 cents a pound. I will make a guess, but it is a somewhat educated guess, from what we have seen in talking to people in this country, in producing that same product with American caught fish, and American processing plants, we estimate they would have to get at least $1.30 a pound to be marginally profitable.

If such was the case, it would make the cost of fish to the consumer go up, and she would slow down with the amount of fish she bought. Because there are other sources of protein available, chicken, so on.

So we feel that some of the fishermen asking that the foreigners be excluded from our fisheries, so that they can have it all to themselves, are considering the price will go up to the point it will be profitable, but they are going to lose their market.

Certainly, we have certain proprietary rights to talk about pollock. Mrs. Paul's introduced pollock into the U. S. market about 10 years ago. It had never been sold on our level to the American consumer. The reason we turned to it was because we could not get enough cod to fill our requirements.

We started looking to a different species, and found that pollock in certain areas, considered an inferior fish, if handled properly, would work.

So we feel that we are not just sitting on the sidelines, or should not be sitting on the sidelines watching the parade go by, without some voice in the formation of U.S. policy.

Mr. **Breaux**. I appreciate your testimony. You represent a fine company. We do not agree on economics. I appreciate your testimony.

You and I have been able to talk on this subject before, and your position needs to be considered by the Congress. So we appreciate your testimony, Mr. Baker. And maybe we will get to see your president somewhere down the line. Give him my regards.

Mr. **Baker**. Thank you.

Mr. **Breaux**. That concludes our third long day of hearings on the legislation.

The Chair has already announced that it is the intent of the subcommittee to have a markup on this legislation next Wednesday.

With that, the subcommittee will be in recess until further call of the Chair.

[Whereupon, at 6:55 p.m., the subcommittee adjourned, subject to the call of the Chair.]

[The following was submitted for the record:]

U.S. House of Representatives,
Committee on Merchant Marine and Fisheries,
Washington, D.C., May 1, 1980.

Mr. Morris Busby,
Deputy Assistant Secretary for Oceans and Fisheries Affairs,
Department of State, Washington, D.C.

Dear Mr. Busby: It appears that the Department of State is approaching the point where it will decide, in consultation with the Department of Commerce, whether or how surplus fish withheld from the Soviet Union this year will be allocated to other foreign nations. There is also some question concerning the treatment of fish withheld from Japan. I believe that the significance of these matters to the development of the United States fishing industry cannot be overstated. As Chairman of the House Subcommittee on Fisheries and Wildlife Conservation and the Environment, I would like to assure that my views on the subject are a matter of record.

A principal purpose of the Fishery Conservation and Management Act (FCMA) is to bring about the full utilization by American citizens of the living marine resources subject to the exclusive fishery management authority of the United States. Key provisions of the Act are calculated to ensure that this goal is attained. Among them is section 201(e), which provides for the conditional allocation of surplus fish to foreign nations.

It is clear that full utilization will be achieved by U.S. citizens only if there is substantially improved access to foreign markets for American fishery products. It is also clear that allocations pursuant to section 201(e) of the FCMA can and ought to be used to assist in achieving that end.

At the present time, our exports are discouraged by high tariffs, restrictive import quotas, anti-competitive import licenses, and other trade barriers, even in countries that are permitted to carry out substantial fishing and processing operations within our 200-mile zone. Worse still, several of these countries export to the United States the fish they harvest from our zone. Their restrictions on imports perpetuate this situation by contributing to the underdevelopment of our industry. Our more than $2 billion balance of payments deficit in fisheries products reflects this reality.

I regard the withholding of 40,000 metric tons of pollock from Japan, a major fisheries trade offender, to be a grossly inadequate use of the authority provided by section 201(e) to respond to this serious overall situation. I am very disappointed that the device of allocations of Surplus fish to foreign countries is not being utilized more aggressively to improve our fisheries trade posture. Such a situation is indefensible in these times of national economic distress.

In recent weeks, State and Commerce Department representatives met with Japanese and European officials concerning the linkage between export opportunities for United States fisheries products and the allocation of surplus U.S. fishery resources. Our spokesmen emphasized that trade barriers are inhibiting the growth of the United States fishing industry and that future allocations would be influenced by the extent to which U.S. exports are provided improved access to foreign markets. It is my understanding that Japan did not respond meaningfully to this approach, but that other countries did. In my view, allocations must be determined accordingly. Most certainly, Japan should not receive a portion of the fish withheld from the Soviet fishermen, nor be permitted to harvest the 40,000 metric tons of pollock withheld from Japanese fishermen. Indeed, a reduction of the future allocations to Japan would be entirely appropriate. This same policy should apply to other countries that fail to respond to our legitimate fisheries trade concerns. However, to the extent that real assistance is offered by foreign nations, they should receive increased allocations from our surplus until such time as all foreign fishing in our zone is terminated.

On May 6, 19 and 20, 1980, my Subcommittee will receive testimony on H.R. 7039, the "American Fisheries Promotion Act," which I recently introduced. The purpose of the bill is to assure the rapid attainment by American citizens of full utilization of our fishery resources. An important component of the bill is a provision that would amend FCMA section 201(e) to ensure that the allocation of our surplus fish reflects a policy aimed at enhancing foreign marketing opporunities for our fishermen. I note, as well, that there is growing sentiment for transferring principal allocation authority from the Department of State to the Department of Commerce and that this may be raised during the May hearings.

You may be assured that the performance of the Executive Branch in the implementation of section 201(e) will be closely scrutinized to determine whether and to what extent Congressional intent has been served. The further treatment of the surplus fish withheld from the Soviet Union and Japan will, no doubt, be regarded as most relevant, if not dispositive, in the consideration of possible amendments to the allocation provisions of the FCMA. If those fish are allocated and if, in that process, fisheries trade considerations are not accorded proper consideration, substantial impetus will be given to proposed .,illegislative actions to ensure that the errors is not repeated.

With best personal regards,

Sincerely,

John B. Breaux,
Chairman, Subcommittee on Fisheries and Wildlife Conservation and the Environment.

National Food Processors Association, Washington, D.C.,
May 23, 1980.

Hon. John Breaux,
Chairman, Subcommittee on Fisheries, Wildlife and the Environment,
U.S. House of Representatives, Washington, D.C.

Dear John: The National Food Processors Association would like to commend you and your colleagues on the tremendous effort you have made to insure that U.S. fisheries receives the best possible encouragement and atmosphere for the attainment of full development potential. Your introduction of H.R. 7039, the "American Fisheries Promotion Act," and speedy consideration through congressional hearings evidence a sincere desire to assist the industry and to respond to industry needs for positive research and development programs.

Although NFPA did not participate in the recent hearings on the proposed legislation, our seafood processing membership strongly supports certain provisions of H.R. 7039 and would greatly appreciate your consideration of their position on those issues as well as their expressed concern regarding other aspects of development measures. Therefore, we have enclosed a written statement which we respectfully request be a part of the official legislative record.

In addition, we welcome any questions you, the Subcommittee, and respective staffs may have regarding the statement and would be happy to offer further information and details as needed. Our interest in this area is long-standing and we look forward to working with the Congress and our other associates to accomplish the goal all share, which is an eventual realization of the potential of this nation's seafood industry.

Thank you again for your assistance and consideration, and do let us know how we can aid these endeavors.

Sincerely,

M. Kathryn Nordstrom
Director, Government Relations,
Seafood Products

Enclosure.

STATEMENT OF M. KATHRYN NORDSTROM, GOVERNMENT RELATIONS DIRECTOR FOR SEAFOOD PRODUCTS, NATIONAL FOOD PROCESSORS ASSOCIATION

My name is M. Kathryn Nordstrom and I am Government Relations Director for Seafood Products of the National Food Processors Association ("NFPA"). NFPA is a non-profit trade association with approximately 600 members which have canning and frozen food operations in 43 states. Our members pack approximately 95% of the entire national production of canned tuna, salmon, crab, shrimp, sardines and other seafoods.

NFPA is most appreciative of this opportunity to address H.R. 7039, the "American Fisheries Promotion Act," which is intended to aid in the full development of this nation's fisheries for the maximum benefit of the American people. We are grateful for the Chairman's and the Subcommittee member's diligent pursuit of total development and enhancement of the U.S. fisheries industry and join you and our colleagues in the desire to see a national development program in place as soon as possible.

I. RESEARCH AND DEVELOPMENT REGARDING UNITED STATES FISHERIES

This committee is well aware of the interest of the NFPA seafood processing membership to have this Congress reaffirm its commitment to fisheries research and development to promote growth of the domestic fishing industry including harvesters and processors. As you recall, we testified before this Subcommittee, December 10, 1979, on the importance of such action and specifically supported certain programs contained in measures still pending that would achieve many of the same goals expressed in H.R. 7039. We submit this statement for the record to evidence continued support for those worthy concepts that our members still believe to be the most satisfactory mechanisms for the greatest enhancement of our seafood industry.

NFPA's primary concern is that the funds necessary to carry out desirable research and development projects should be available on an adequate and reliable basis. Thus, we strongly believe that the Saltonstall-Kennedy Fund mechanism provides the best and the most appropriate vehicle for the funding of fishery development projects and should be continued. H.R. 7039 addresses this immediate concern and greatly improves the existing situation regarding the allocation and wise use of these S–K monies. We support this bill's proposition that more of the S–K funds should be dedicated to non-federal fisheries development projects since many such worthy projects are not being funded at present. At a minimum, 50 percent of the transferred monies would be best used by those knowledgeable in the needs of this industry. We therefore continue our support of minimum allocation of 50 percent of S–K funds to industry projects. This minimum funding level is amply provided for in H.R. 7039. Further, we support H.R. 7039 specifications on matching fund percentages, on the time table for the National Fisheries Research and Development Program,[1] and the continued availability of monies accruing to the fund for industry projects without fiscal year limitation.[2]

NFPA also agrees with this bill's proposed detailed report to Congress on the use of the S–K funds and the need for close scrutiny of government projects to determine whether they are, in fact, justified when evaluated in the light of non-federal projects.[3] However, we feel most strongly that this report should be directed at whether the money has been wisely spent, not at the substance of the findings from the various projects since such information may well be sensitive and is not necessarily needed in order to make a fair evaluation of the use of the funds. On a related point, NFPA believes that it may prove to be a negative precedent to specify exactly which projects are best supported with S–K funds. Our members have consistently addressed the need to have qualified scientific and technical fisheries personnel determine the state of the existing literature and the need for further work in fisheries projects. With proper advice and counsel, they believe that worthy and justifiable endeavors will result without specific statutory designation in this area. This is not to say that NFPA is in disagreement with the intentions of the Title I "required projects"—indeed we feel it would certainly be appropriate for S–K funds to be used in research on fuel efficiency and in voluntary quality programs for fisheries.[4] There is no need, however, for the legislation to specify research priorities. The system in the legislation for presenting and evaluating research proposals will assure that only the most valuable and worthwhile projects would be funded.

NEPA has noted the Administration's continued desire to subject current S-K money to the appropriations process as was mentioned in the May 6, 1980 testimony of NOAA Administrator Richard Frank. We cannot agree that this would be the most appropriate method for funding fisheries research and development. We maintain the position that Congress evaluated the mechanisms for financing and accomplishing these goals when it enacted the Saltonstall-Kennedy Act and is fully cognizant of the potential reduction in necessary funds if the S-K mechanism is abandoned.

As a last point on Title I of H.R. 7039, our membership believes that further study and analysis is required to determine what effect a U.S.-ownership requirement might have on the allocation of S-K funds and on other U.S. interests such as U.S.-owned or controlled companies operating in foreign countries that provide research funds to local entities regardless of their ownership. We are unclear on the impact this requirement might have on potential research to benefit this nation's fisheries if we impose a nationality restriction. That question coupled with the concern for possible reciprocal action in other countries prevents NFPA from taking a position on that aspect of the proposed S-K criteria at this time, and we would urge that all interested parties evaluate this carefully before making a final decision.

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[1] Sec. 2(c) Fisheries Research and Development Projects, H.R. 7039.

[2] Sec. 2(e)(2), H.R. 7039.

[3] Sec. 2(d) National Fisheries Research and Development Program, H.R. 7039.

[4] NFPA Research Laboratories, in collaboration with industry and government entities, have submitted applications for S–K grants to fund two research projects—one on energy efficiency in seafood processing plants and one on seafood nutrition analysis.

II. EXTENSION OF CAPITAL CONSTRUCTION FUND TO FISHERY FACILITIES

Title II of H.R. 7039 again proposes a concept which NFPA has supported in the testimony cited earlier in this statement and we would refer the Subcommittee to the hearing record [5] where we have enunciated our specific support and points of concern in extending the Capital Construction Fund program to shoreside fishery processing facilities. The need for new capital investment to obtain the full potential of the seafood processing sector of this industry is a generally well recognized and understood requirement. NFPA members for some time have favored tax incentives as a means of financing. The various incentive measures deserve attention and examination and we are hopeful that eventually the administration will look favorably upon such programs for this industry including the possibility of accelerated depreciation as well as the CCF program extension.

Shoreside facilities contribute particularly to the domestic economy both because of their direct role in employment, value added and taxes, and because their activities have multiplier effects on associated industries and on the economy as a whole. The CCF program of directed self-financing through tax deferral would provide shoreside industry with an incentive to expand its facilities, purchase equipment and machinery, and otherwise devise programs to achieve growth and develop in an economically efficient fashion. Moreover, the CCF program, relying primarily on industry rather than government initiative and requiring minimal administrative regulation involvement and cost, represents a type of federal program whose desirability is increasingly apparent. We would like to stress the fact that the CCF is a tax deferral not a tax exemption program.

NFPA notes that many of our previous suggestions on this issue have been incorporated in H.R. 7039 and thinks it is useful to reiterate four key aspects to the establishment of a Capital Construction Fund program for shoreside facilities. First, the legislation should be directed toward maximizing economic benefit. Thus we endorse the proposal that there be no imposition of a minimum or maximum limitation on the amount that may be invested by an applicant beyond the current deposit ceiling of 50 percent of the person's taxable income. Secondly, the CCF program should extend to all fisheries including coastal and distant water, traditional as well as underutilized. Thirdly, a broad range of investment should be permitted to be undertaken in CCF programs. Thus we agree with a broad definition of the term "fisheries facility" which would cover the financing or refinancing of the acquisition, construction, reconstruction or reconditioning of new or used facilities or parts of facilities, and appurtenant structures. Also, the full range of operations should be covered including the unloading, processing or other treatment, handling, transportation, and storage or distribution of fish or fish products. The program should further be available for the purchase of equipment, and lands or machinery to be used in connection with any of the fisheries facilities or structures. The provisions of H.R. 7039 appear to adequately take these considerations into account. We believe too that this should include those installations and operations necessary to be in compliance with federal regulations. Lastly, administrative regulation should be kept to a minimum and should not include unrelated conditions or restrictions.

Once again we feel it necessary to call your attention to the NOAA statement of May 6 referencing their opinion and actions regarding CCF and shoreside processing facilities. While we feel it unnecessary to debate their position, it is important to point out that a year ago the Administration decided that they lacked information on which to base any position on the suggested CCF program extension and thus they needed to "study" the issue. According to their recent testimony, they have just "obtained the services of an industrial economist who is familiar with the fishing industry and who will *shortly begin working* on this project." (Emphasis added.)[6] Processors, harvesters, and many members of Congress agree that it is necessary to extend the CCF program to shoreside facilities. NFPA finds it disturbing that the government, having slowed down consideration of extending CCF to shoreside facilities by calling for further, and most agree unnecessary study, has delayed for so long even starting that study.

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[5] NFPA testimony of December 10, 1979 before the Subcommittee on Fisheries and Wildlife Conservation and the Environment.

[6] Statement of Richard A. Frank, NOAA Administrator, before the Subcommittee on Fisheries and Wildlife Conservation and the Environment, May 6, 1980, at page 10.

H.R. 7039 presents a new aspect to CCF extension in Section 201(2)(B), often referred to as a cross-over provision, which NFPA has not yet had sufficient opportunity to study. Thus we refrain from expressing an opinion on this section at this time.

III. OTHER FUNDING PROVISIONS OF H.R. 7039

Title II, Chapter 2 of H.R. 7039 concerns amendments to Title XI of the Merchant Marine Act of 1936 with specific attention given to guarantee of obligations for fishing vessels and for fishery facilities. This is a subject on which the NFPA membership has not formulated a position and thus we will not address it in this testimony. However, Section 212 would lift the existing moratorium on the Fisheries Loan Fund established by the Fish and Wildlife Act of 1956. This concept is one which NFPA can support with some reservation on the purposes to which the money would be put.

Testimony presented during the subcommittee's May 19 and 20 hearings indicated the mixed reaction and concern over the concept of the Federal Government indiscriminately preventing defaults. Our members are uncertain as to the wisdom of such "bailout" actions. We suggest that the subcommittee investigate alternatives to the system now proposed in the bill for meeting the financial needs of processors and fishermen alike. We wish we could offer an easy solution to this problem. In the absence of such a solution, we ask the subcommittee to investigate existing agricultural programs to see whether or not there might not already be in place programs for which seafood interests might qualify and which would adequately address their financial needs. If seafood interests are not now included in these programs, perhaps they could be as a means of providing them financial assistance.

H.R. 7039 in Title III, Section 302, calls for an increase in the amounts of monies collected under foreign fishing permit fees. Because this section also would transfer amounts of those monies to the Fisheries Loan Fund discussed above we will address this at this point in our statement. NFPA shares the concern of those who believe that our domestic industry is not receiving the appropriate service the Congress envisioned when it legislated the Fishery Conservation and Management Act of 1976 with regard to the imposition of fees on foreign fishing in our waters and the purposes to which those fees would be put. We believe that Section 204 of Public Law 94-265 authorizes the government to cover its costs of administering the foreign fishing program by the charges made to foreign fishermen. To our knowledge this has not taken place. The existing authority has not been used. We sincerely wish that this authority will be utilized to bring this entire program into balance and support Congressional efforts of contact with the Administration to insure this.

Our current thinking is that the increase in fees should be based on a registration of permit charge rather than on landed value or catch amount. We believe that a flat, up-front structure such as a registration fee would allow for full recovery of costs. More complicated mechanisms for establishing the fee necessarily entail very careful review. It is our understanding that the government presently is evaluating this system and in some instances has discovered potential negative aspects with the different factors that might be considered in revamping the fee structure. This long process illuminates the difficulty associated with elaborate fee structures. We again urge our colleagues and this Congressional body to be fully cognizant of the fact that we have a very viable distant water fleet that may be severely impacted by certain of these potential determinations under discussion now unless care is taken in developing the wisest approaches to solve the difficulties that many have identified.

IV. SUMMARY REMARKS

The remaining provisions of H.R. 7039 are better addressed by our affilitated regional and commodity organizations. NFPA is under the impression that the FCMA presently provides for the phasing out of foreign fisheries when domestic harvesters and processors are in a position to utilize the resources. In addition, there has been extensive discussion as to the FCMA allowing for the attainment of some of the other goals proposed in this pending legislation; but again, NFPA leaves these discussions to our related organizations.

In summary, NFPA would like to thank all of you for allowing this opportunity to present our views and to reiterate our strong plea for speedy enactment of development legislation that embodies those provisions on which we can all agree and that are so vital to the continued growth of this domestic seafood industry. We do hope that everyone shares our interest in the fundamental needs that must be met for enhancement of our existing and future fisheries endeavors. NFPA is extremely interested in working with this committee to attain the best possible fisheries development and promotion law and offer our assistance in this effort. Thank you.

PACIFIC COAST FEDERATION OF FISHERMEN'S
ASSOCIATIONS, INC.,
Sausalito, Calif., May 16, 1980.

Hon. JOHN BREAUX,
Chairman, House Subcommittee on Fisheries and Wildlife Conservation and the Environment, Longworth House Office Building, Washington, D.C.

DEAR MR. BREAUX: As you know, the Pacific Coast Federation of Fishermen's Associations represents 15 California commercial fishermen's organizations from Crescent City to San Diego. Neither myself, nor anyone from our association, will be able to attend the hearing on 20 May on your bill H.R. 7039, "American Fisheries Promotion Act." However, our organization is a member of the National Federation of Fishermen and Lucy Sloan, the Executive Director of NFF, will be presenting our comments generally in testimony, as well as the comments of other members of NFF.

H.R. 7039 is an exciting bill and one that we find reflects the concerns of the people in the fishing industry. We are particularly grateful for your statement introducing the bill when you said, "The concept of optimum yield has proven a weak device for the protection of the economic and social aspects of our nation and has been distorted by excessive emphasis on biological consideration." That statement is an accurate assessment of the current "management" practices under the FCMA on the west coast. For example, in the 1980 fishery management plan for salmon by the Pacific Council there was less than one page, out of more than 160 pages, on the economics of the salmon fishery. It is our contention that the Pacific Council failed to consider the optimum yield of the salmon fishery and it is for this reason that California salmon fishermen find themselves in litigation with the Secretary of Commerce at this time (see enclosed). We will know on 28 May whether a Federal Court Judge also agrees with us that optimum yield is more than a biological term.

If you, or your staff, have any questions or need any information please do not hesitate to contact us.

Sincerely,

ZEKE GRADER,
General Manager.

STATEMENT OF DAVID E. EYMARD, PRESIDENT OF TRANS-GULF TRAWLERS, INC.

Mr. Chairman and Committee Members, my name is David E. Eymard and I am President and Manager of Trans-Gulf Trawlers, Inc. of Brownsville, Texas. I would first of all like to thank the committe for the opportunity to present this testimony.

Myself and my two partners own and operate a small fleet of eight shrimp trawlers which fish along the coast of Texas and Louisiana in the Gulf of Mexico. Although I have been active in the shrimping industry for only eight years, nevertheless, due to the fact that ours is a family business of better than 25 years my true exposure to this industry goes back much further. However, in those eight years the nature and complexity of the fishing industry in general and the shrimping segment of that industry in particular, has changed drastically. Modes of operation which were sucessful formulas a few years ago are no longer valid today. Profitability, once almost entirely a function of total shrimp production, is now measured in accordance with operational efficency, a goal which we have attempted to maximize to it's fullest. Yet with this efficency at it's best, profitability is still in jeopardy.

We in the gulf shrimp industry are among the first segments of the U.S. fishing industry to experience the disaster which will soon engulf the entire industry. As of the latter part of January of this year, well over three quarters of the shrimping fleet in our geographic area were forced to discontinue operations. The situation to this day has yet to change for the better. Due to the fact that boat owners in our fishery have traditionally absorbed all of the production costs, in particular fuel expenses, we were the first to realize the immediate effects of producing an unprofitable product. Boats were simply unable to produce enough shirmp at current price levels to pay fuel bills alone, leaving only losses to add to overhead and equipment costs.

To fully realize the impact of this work stoppage, I refer to a study made by Dr. Bruce Cox, a County Marine Extension Agent from Texas A & M University. Dr.

Cox estimates that employment associated with the shrimp industry in 1978 reached a level of 3,019 persons employed in Cameron County alone. By use of a multiplier developed for the local study, Dr. Cox estimates that of the $38,954,485.00 worth of shrimp landed in the county in 1977, the economic output generated over $95,000,000.00 in that year alone. Assuming, as we must, that most fisheries in the United States generate similar employment and economic output, the effects of a nationwide fisheries downfall will be extremly devastating and widespread.

Profits in the shrimp industry are a result of the interaction of three basic factors: Amount of production; Production cost (Fuel); and Market price. Unfortunately we in the shrimp industry have little or no control over any of these factors. Presumably, were these factors allowed to interact in a free market system, a balance would be achieved in which a fair return would be obtainable. The situation with which we are now faced grossly upsets this balance. Unfortunately, the most devastating factors involved are those which we in the production sector can do nothing about.

A key factor in most all sectors of the fishing industry is the cost of Diesel fuel. Those costs alone have increased better than 800%. The industries ability to absorb the first round of fuel cost increases was severely tested in 1974, however, subsequent conservation techniques and a strong market for shrimp forestalled disaster. The relief however was shortlived. The magnitude of fuel cost increases over the last year combined with the softening of the market by large influxes of foreign shrimp, has produced a truly disastrous atmosphere for domestic shrimp producers.

A major reason for the market systems inability to control the situation is the fact that U.S. producers are at a distinct disadvantage in competing in their market. Fuel costs, clearly the largest production cost for the U.S. shrimping fleet, are relatively insignificant in many countries which use our market. For example: Mexico (which has recently excluded U.S. producers from its waters, although its own scientists have concluded that they have a surplus of unharvested shrimp) produces shrimp with 17¢ per gallon fuel, Venezuela 9¢ per gallon. In effect, gentlemen, we have been removed from our own market due to the advantages granted to foreign producers by their governments. If we were to combine this inability to successfully harvest our own shrimp, with certain provisions of our own fishery laws, it is conceivable that we would have to share our newly created surplus with Mexican producers. Though this scenario is I must admit far fetched, it nevertheless exemplifies the situation.

Fair competition is a key aspect in the economic success of our particular segment of the fishing industry, however the equitable nature of that competition is greatly out of balance, to our disadvantage. Not only does this cripple the domestic industry, it also helps to put the U.S. economy in jeopardy with regard to our balance of trade deficit. In 1977 the U.S. had a $21 billion trade deficit in fisheries, making seafood among the top eight products which accounted for our overall deficit. In fact, the value of fisheries imports has quadrupled from 1967 to 1977, these figures I'm sure have increased since that time. Clearly this situation is neither good for the domestic producer nor the economy in general, and ultimately the U.S. consumer.

Immediate help is needed if the producer is to survive the current crisis, low interest loans and other forms of financial assistance are needed to cure the symptoms which we now suffer from. Symptomatic cures, however, are not the ultimate answer. We must attack the causes of these symptoms. A means where by we can attempt to equalize production (fuel) costs with those of our foreign competition is a necessity if we are to once again become self sufficient as an industry. Likewise we must explore ways in which we may obtain direct help from foreign competitors in enhancing the market which we must share. A possible solution to both of these problems could come in the form of a nonprotectionest tariff on foreign imports, the proceeds of which could be used to obtain the necessary marketing goals previously mentioned.

H.R. 7039 addresses some of these problems and lends support to the newly developing U.S. fisheries brought about by the F.C.M.A. and subsequent government programs. However, areas of the fishing industry which are now at or nearing the maximum obtainable yield for their respective species, as in the case with gulf shrimp, cannot absorb the influx of capital brought about by programs such as the N.M.F.S. "Fishing Vessel Obligation Guarantee". Total gulf shrimp production has been relatively constant over the past several years, and I believe that the F.V.O.G. program has contributed to a capital expansion which has reached an unhealthy proportion in the past two years in the Gulf of Mexico. To put it simply: the individual producers share of an increasingly less profitable pie has been diminished significantly. Programs of this nature must be studied carefully in this respect so as to insure the viability of already developed fisheries such as the gulf shrimp industry. In our particular case, I firmly believe, more harm than good has been done.

With this in mind, I give my support to Congressman Breaux's bill. However, as I have previously indicated the various aspects of this bill as presented are more of a benefit to a healthy expanding industry, yet, before it's fruits can be realized, we must address the more urgent problems which place us in the arms of rapid extinction.

Gentlemen, I thank you for your time and the opportunity to let my feelings be heard.

Statement of Wilma Anderson, Owner, Ocean Breeze, Inc. & Candy, Inc.

Mr. Chairman and members of the committee, I am an owner of four (4) 75 double rigged steel hull trawlers. The vessels are based and operated out of Aransas Pass, Texas, and are owned by the following corporations:

Ocean Breeze, Inc., Box 1077, Aransas Pass, Tex.:	
M/V Cape Town—value	230,000
M/V Cape Fairwell—value	230,000
Candy, Inc., Box 1077, Aransas Pass, Texas:	
M/V Cape Lookout—value	230,000
M/V Candy Lynn—value	350,000
Total	1,040,000
Fixed liability yearly (principal and interest):	
Notes payable—mortgages	103,760
Notes payable—S.B.A.	28,800
Total	132,560

Three of the investments have been tied at the dock since December 15, 1979, and the fourth vessel was placed on the dock on May 7, 1980, it is not economically feasible to put the vessels back into operation at this time, due to the substantial losses incurred in 1979 and the loss continuation into 1980.

We are in dire need of Congressman John Breaux's bill H.R. 7039. It is a beginning for some of the laws that the fishing industry desperately needs in order to survive. I would like to comment and make suggestions on the bill as follows:

FISHERIES LOAN FUND—SECTION 212

The restructure of the loan fund is needed immediately for the vessel owners that have not been able to obtain Small Business Administration funding to handle Notes Payable in default (Small Business Administration is currently without funds). Could this fund be restructured and titled "Fishermen Disaster Fund"? The fund to adopt the old 1956 Fisheries Loan Fund of six (6) million dollars presently under administration moratorium (as a starting balance for new fund), delete wording "loans for refinancing of cost of purchasing, constructing, equipping, maintaining, repairing, or operating commercial fishing vessels or gear", and insert the wording "economic and disaster crisis funding for commercial fishing vessels under Title XI loan guarantee for immediate advance payment of Notes Payable, and upon application advancement for operational cost".

Time is of the essence for the vessels under Title XI, once a loan is in default the lending institutions have no choice but to exercise their rights in a thirty (30) day period under the guarantee or lose this option, the delays in declarations, funding, application processing and actual funding to the corporations by Small Business Administration is too long, time lapse adds disaster upon disaster. Under such a structure the fund could provide the immediate cash infusion the industry would require at a time of crisis, had this fund already been in effect owners would not be faced with foreclosure at this time on Title XI loans that are in default, some owners are still waiting for the additional appropriation of funds by Congress to Small Business Administration.

I suggest an addendum to the bill to be titled "Fuel Rebate Fund for Commercial Fishermen". This fund to be established through accumulated areas on short term and long term planning. Immediate tariffs to be placed on foreign imports, in order to offset high cost of fuel of operation for the American Fishermen and place us on a competitive basis with the foreign fishermen that are subsidized by low cost of fuel. Import quotas to curtail excessive flooding of our markets, which has decreased gross sales to the vessel and increased cost of operation. A percentage of the 10 percent imposed fee on Foreign Fishermen in Section 302 to be appropriated to the fuel rebate fund. Due to the eventual phase out of foreign fishing in American waters, the amount of fee lost per year in phase out to be requested under the windfall profit tax.

If we do not receive assistance in some form, then all the laws contained herein and proposals outlined for this bill will be of no benefit, as none of the commercial fishing vessels will be in existence to use them.

I have attached a Profit & Loss Summary on the four vessels for the fiscal year ending December 31, 1979, which is marked Exhibit A. This schedule will depict the loss per vessel and the total loss accumulation for the year.

The losses sustained by the vessels resulted from a series of problems the industry faced in 1979, which are outlined below, some of the problems have been alleviated and the others are continuing into 1980.

I. RISING COST OF DIESEL FUEL

The seafood industry is solely dependent on the use of diesel fuel for the main propulsion unit of the vessel, there is no other resource available at this time. The average vessel uses per year 72,000–80,000 gallons depending on running distance to fishing grounds. At the beginning of 1979 fuel cost was at .43 cents a gallon and ended the year at .82 cents a gallon. On January 15, 1980, price moved to .89 cents a gallon and on May 10, 1980, was at .95 cents a gallon.

The projection for a vessel is normally 80 percent operating cost and 20 percent profit, which out of this 20 percent profit principal on note payments would be deducted leaving the vessel in a positive cash flow status. Diesel fuel cost can never exceed 20 percent of gross sales, when this occurs the vessel will then be in a loss status, this occurred in 1974, 1979 and is continuing in 1980.

The attached schedule marked Exhibit B reflects the fuel cost percentage of sales for 1978, note that this was in the 20 percent category and the vessels were in a positive cash flow for the year, 1979 and the projected 1980 cost shows cost of fuel exceeding the 20 percent and vessels are in a negative cash flow.

Once the price controls of fuel were removed by the officials in Washington, it left the industry that is solely dependent on fuel at the mercy of the oil companies and fuel docks, and they have successfully broke us.

The economist in Washigton project diesel fuel to be at $2.75 a gallon before it will level out, there is no way we can operate on this pricing.

Our businesses and related businesses to the industry are now in a state of bankruptcy due to excessive cost of fuel, and a large number of crewmen and other employees are now unemployed. Note Exhibit A even though vessels were in a loss, it reflects the amount of dollars that would be removed from the local economy should these vessels fail and the entire industry collapsed, this represents only four (4) vessels.

At the fuel pricing today we cannot compete with the foreign fishermen that are subsidized in various ways by their government, that can produce at a cheaper rate and then place the same product on our open market.

II. IMPORTS

The year 1979 and the first quarter of 1980 reflects a heavy influx of imports, decline in exports and consumption, as shown on the attached schedule of imports marked Exhibit C. The results of market flooding has created the price per pound to decline, as shown on the attached schedule Ex-Vessel Price Comparison marked Exhibit D.

Due to high interest rates and tight money the importing firms have turned to the foreign imports, as the foreign countries are not demanding payment at time of shipment, but placing large quantities in warehousing and being paid for at time of sale. The Japanese market is on a decline and each time this occurs the imports are then directed back to our markets that holds no restrictions or tarriffs.

The poundage in U.S. Cold Storage on February 28, 1980, is the highest for the three years 1978, 1979 and 1980, therefore, product demand on local level is on a decline, when this occurs, prices will drop and again the American Fishermen are placed in jeopardy.

We must have a price freeze and a curtailment on imports in order to minimize losses to the vessels.

III. ADVERSE WEATHER CONDITIONS

The torrential flooding of fresh water into the nursery areas in the early months of 1979, terminated a large volume of small brown shrimp before they ever reached the Gulf of Mexico.

This Act of God is beyond anyone's control and is not a yearly occurrence, weather conditions go with the industry and to overcome it we must have a strong pricing and normal operational cost.

IV. OVERFISHING OF BAYS

Excessive overfishing of bay areas by Bay Fishermen, resulting from additional construction of bay boats, large influx of refugees and not enough law enforcement officers to enforce daily poundage regulations, hence, decreasing an already diminished yield for the Gulf of Mexico.

The problem of poundage regulations was met with on April 18, 1980, before a Texas Parks & Wildlife hearing in Austin, Texas, assurance was received from the Board that they would relocate from other areas Game Wardens sufficient to handle the coastal areas for enforcement on the poundage regulations. The Texas Parks & Wildlife department is faced with the same financial problems as everyone else, insufficient budget funding to hire necessary personnel.

The influx of additional bay boats and fishermen still poses a threat to production yield, even though Parks & Wildlife will enforce regulations, the additional shrimp taken will diminish the yield for Gulf harvest.

V. IXTOC I OIL SPILL

The Ixtoc I Oil Spill was a costly disaster for the Texas Shrimper. Fishing areas on the Texas Coast was limited. Vessels incurred additional expenses of fuel cost by having to fish off the coast of Louisiana and Mississippi, loss of fishing gear and tear up of gear due to captains being unfamiliar with those fishing bottoms, and vessel repairs in other ports created additional expenses of mechanic and travel.

Vessels incurred lost time and revenue due to detainment of shrimp by the Food & Drug Administration.

Through legislature the Fishermen's Proctection Act has been enacted to handle such disasters should they occur again.

VI. SMALLER FISHING GROUNDS

Our inability to fish in the Mexican waters has placed a heavy concentration of vessels into an area one-half the size normally fished. Through the increased number of vessels confined to a smaller area contending for an already diminished yield—the end results to the vessels were staggering.

VII. UNDERWATER OBSTRUCTION AND FLOATING DEBRIS

The M/V *Cape Lookout* lost all new nets, doors, cables and ripped off one outrigger and had one man injured when the cables snapped, when the vessel trawls became entangled on a pipeline off the Louisiana Coast. Repairs to the vessel, lost fishing gear, lost time and liability deductible on injured man amounted to $21,000. Our hull insurance does not cover fishing gear overboard and only covers topside above the amount of deductible.

This claim was filed in March 1979 under the Fishermen's Contingency Fund. The only results so far was a field audit in March 1980, results of this audit to go through the same paper work filed March 1979, and advised that possibly one-half of the claim would be paid and if I was not in agreement with the settlement I could appeal it. The Small Business Administration took this into account on my economic injury loan as a possible recovery.

Something needs to be done in this department, the only disbursements that any of us know of is in personnel salaries and airline tickets for field audits.

The M/V *Cape Fairwell* picked up in its propeller a tanker's anchor line that was left floating in the Gulf of Mexico, damage to the vessel was extensive, required a new marine gear (11,500 cost), shafting bent, rudder and propeller damaged, vessel was dead in water for three days awaiting tow to port, lost time incurred and a portion of claim was paid by the insurance carrier.

This damage to vessel could now be recovered under the Fishermen's Protection Act, at the time the above occurred this act was not in effect.

SUMMARY

Members of the committee as a vessel owner I do not feel that the fishing industry is asking for any special favors over any other industry. The general consensus is, "we're all in the same boat", this is not true! Airlines, truckers, farmers, restaurants, factories, public utilities, etc., have the option to pass their increased cost on to the consumer, as a vessel owner I no not have this option. The seafood market will not bear the increased cost of operation expenses on fuel that we are experiencing today, not will it carry the future predicted fuel pricing forecasted by the economist.

The only two options the industry now has is to go to the Small Business Administration for economic injury loans to carry the vessels with the hope that our government will realize the plight of the industry and enact the necessary laws that are desperately needed to save the industry, or that without the help of Congress, we have no alternative but to allow financing institution foreclosure on the vessels. Once the foreclosures start the chain reaction begins with corporate bankruptcies, economic losses to all related segments of the industry and an economic impact that will be felt nationwide, but more severely in the coastal states and cities.

Then you and I as a consumer will become solely dependent on the foreign countries for seafood imports.

PROFIT & LOSS SUMMARY

JANUARY 1, 1979 - DECEMBER 31, 1979

	M/V CAPE TOWN	M/V CAPE FAIRWELL	M/V CAPE LOOKOUT	(6 - Mos) M/V CANDY LYNN	TOTAL
	33,664#	* 22,160#	* 22,957#	27,638#	106,419#
INCOME:					
Shrimp Sales & Ups	164,360.82	96,223.96	102,321.77	138,939.64	501,846.19
EXPENSES:					
Crew Wages	50,595.49	24,334.51	25,486.49	38,694.15	139,110.64
Galley	6,141.36	4,772.81	8,152.65	4,916.06	23,982.88
Fuel	61,978.07	47,487.39	37,791.86	31,370.29	178,627.61
Repairs & Maintenance	21,158.85	** 18,046.16	** 15,722.31	5,109.88	60,037.20
Fishing Gear	9,079.92	** 14,202.17	** 24,937.67	3,018.59	51,238.35
Supplies	9,906.24	** 11,338.62	** 11,653.59	3,085.24	35,983.69
Insurance	8,006.18	8,006.18	8,442.90	8,735.44	33,190.70
Interest	9,035.12	8,927.02	8,974.64	15,956.42	42,893.20
Contract Labor	280.00	1,132.18	1,026.07	700.00	3,138.25
Bad Debt - Crew			1,596.69		1,596.69
Miscellaneous (taxes, dues, legal & tax accounting)	1,935.75	1,547.58	785.86	626.09	4,895.28
Truck & Travel	1,397.76	3,598.00	1,615.91	585.46	7,197.13
Lease & Dockage	392.70	392.70	392.70	392.70	1,570.80
Office & Utilities	410.22	410.22	410.22	410.22	1,640.88
	180,317.66	144,195.54	146,989.56	113,600.54	585,103.30
GROSS PROFIT: (Depreciation Excluded)	(15,956.84)	(47,971.58)	(44,667.79)	25,339.10	(83,257.11)
Less:					
Principal on Notes Payable (Interest in expenses)	(13,077.90)	(13,077.90)	(13,377.90)	(3,072.00)	(42,605.70)
ENDING CASH FLOW:	(29,034.74)	(61,049.48)	(58,045.69)	22,267.10	(125,862.81)

* Loss Time
** Food & Drug & Debris

* Loss Time
** Pipeline Damage & Debris

EXHIBIT A

YEARLY & QUARTERLY COMPARISON

VESSEL CATCH, POUND VALUE, FUEL COST & PROJECTION

YEARLY COMPARISON (1979 - vs - 1978)

	Ex-Vessel Catch	Pound Average	Gross Sales	72,000 Gal. Fuel Cost		Fuel Cost % of Gross Sales
1978	50,200#	3.11	156,122	@.39	28,080	18%
1979	35,700#	4.50	162,792	@.71	51,120	32%
	(30%)	45%	04%		82%	

1/1 - 5/15 COMPARISON (4½ Mos.) (1979 -vs- 1978 & 1980 - vs - 1979)

1978	17,372#	2.75	47,773	@.38	5,700	12%
1979	13,721# (21%)	4.34 58%	59,494 25%	@.55	8,250 45%	14%
1980	10,645# (26%)	4.20 (04%)	44,709 (32%)	@.93	13,950 69%	31%

FUEL DOCK PRICING - ARANSAS PASS, TEXAS

	1978		1979		1980	
1/15	.38		.43		.89	
2/15	.38		.44		.92	
3/15	.38		.52		.92	
4/15	.38		.57		.95	
5/15	.38		.80		.95	
Average		.38		.55		.93
6/15	.38		.80			
7/15	.38		.80			
8/15	.39		.82			
9/15	.39		.82			
10/15	.41		.82			
11/15	.41		.82			
12/15	.41		.82			
Average	.39		.71			

VESSEL PROJECTION FOR 1980

Vessel is eight (8) months old, holds a National Marine Fisheries Guaranteed Loan, 15 year note, 10½% interest and cost of vessel is $335,000.

All indications are that production will be similar to 1979. If price holds at $4.50 a pound to year end and also fuel was to stay at .95¢ the end results are as shown. Indications are that our market is now being flooded with imports, consumption is down, price is unstable and fuel cost is expected to rise.

SHRIMP SALES 35,700# @ 4.50	•	160,650	
Less - Processing 35,700# @ .10		(3,570)	
Ups on Shrimp 35,700# @ .30		10,710	
		167,790	
EXPENSES:			
Crew Wages	50,951		
Fuel 72,000 @ .95	68,400 •		•42%
Repairs & Maintenance	10,000		
Fishing Gear	9,500		
Supplies	9,000		
Insurance	8,700		
N.M.F. Guarantee Fee	2,000		
Misc. (taxes, dues, legal, accounting, etc) & Contingency	3,000	161,551	
• Depreciation Excluded			
		6,239	
Less - Notes Payable (Principal & Interest) Mortgage		(37,700)	
Notes Payable (Principal & Interest) S. B. A.		(7,800)	
Vessel's Ending Cash Flow		(39,261)	

EXHIBIT B

IMPORTS - LIVING MARINE RESOURCES, INC.
Shrimp Market Report - April 1980

U. S. IMPORTS (Million of Pounds)

Country	1977	1978	1979	
Mexico	76.3	72.5	71.9	*
Costa Rica	1.3	1.1	2.2	
Nicaragua	7.4	5.6	5.4	
El Salvador	5.4	5.0	6.3	
Honduras	4.7	3.5	3.1	
Guatemala	3.8	4.2	3.6	
Panama	10.1	9.2	12.2	
Colombia	5.7	4.2	4.1	
Ecuador	8.6	10.9	13.7	
Brazil	3.5	3.9	9.7	*
Venezuela	2.8	1.3	2.3	*
Guyana	4.6	3.4	3.7	
Surinam	3.7	2.0	1.4	
French Guiana	1.6	1.7	3.6	
Americas	139.5....	128.5.... (11.0)	143.2 14.7	
India	41.1	39.2	30.8	
Indonesia	4.4	3.8	5.5	
Hong Kong	3.9	3.6	5.3	
Bangladesh	3.4	3.5	2.7	
Thailand	4.5	3.9	10.6	
Taiwan	3.3	3.2	7.9	
Asia	60.6....	57.2..... (3.4)	62.8 5.6	
Australia	.8	.2	1.1	
Other	27.2	12.4	17.4	
TOTAL	228.1....	198.3.... (29.8)	224.5 26.2	

U. S. COLD STORAGE

	2/28/78	2/28/79	1/31/80	(Prel.) 2/29/80
Raw Headless	40.2	23.9	44.3	41.3
Peeled	16.2	12.3	19.9	19.3
Breaded	5.9	7.8	6.4	6.1
Unclassified	15.2	7.9	12.1	12.3
TOTAL	77.5...	51.9... (25.6)...........	82.7	79.0 27.1

U. S. SHRIMP EXPORTS

1977	1978	1979
26.1....	34.8 .... 8.7	28.9 (5.9)

1980

The imports of foreign shrimp during January 1980 totaled 16.9 million pounds which is slightly under the average of recent years, but 3.9 million pounds higher than January 1979 receipts.

Imports arrived at a slower pace during February and March 1980. The quarterly total may reach 45.0 - 46.0 million pounds, which would be about 5.0 million higher than first quarter of 1979.

Shipments of shrimp into the United States from Mexico continued at a steady pace during January and February 1980 and may total 8 - 9 million pounds for the period. The index of Mexican imports into the United States through Arizona and California customs districts for the season (September 1 - February 29) shows 1979/1980 to be 4.3 million pounds ahead of 1978/1979 for the same period.

* Low production cost of fuel.

JAPANESE IMPORTS (Million of Pounds)   The largest importer of seafood.

Country	1978	1979	Dec. '78	Dec. '79	Jan. '80
Indonesia	62.5	65.3	6.3	5.2	6.0
India	69.6	85.4	6.1	6.9	3.0
China, Mainland	20.2	26.6	2.7	1.8	1.4
Thailand	18.5	20.5	2.2	2.0	1.8
Australia	16.6	24.2	1.5	2.0	1.3
Hong Kong	8.8	9.6	1.3	1.1	.5
Mexico	17.3	10.4	2.2	.7	.8
Taiwan	12.3	13.2	2.4	1.5	1.2
Malaysia	6.3	6.9	.6	.5	.6
South Korea	5.2	4.9	.2	.4	.2
Other	80.1	82.8	8.4	5.5	5.0
	317.4...	349.8 32.4	33.9....	27.6.... (6.3)	21.8 (5.8)

Once the Japanese imports start a decline all other countries then move towards the U. S. Market, it is open with no restrictions or tariffs. Note the effects on Ex-Vessel Price per pound January - May 1980 when imports increase the U. S. Cold Storage volume.

EXHIBIT C

EX-VESSEL PRICE COASTAL FREEZING, INC.

	10/15			16/20			21/25			26/30		
	'78	'79	'80	'78	'79	'80	'78	'79	'80	'78	'79	'80
1/15	3.72	5.20	5.00	3.17	4.70	4.80	2.94	4.15	4.60	2.76	3.85	4.45
1/31	3.72	5.30	5.20	3.17	4.80	5.00	2.94	4.25	4.80	2.76	3.95	4.65
2/15	3.50	5.55	4.80	2.90	5.05	4.60	2.60	4.80	4.40	2.45	4.20	4.25
2/28	3.55	5.55	4.80	2.95	5.05	4.60	2.65	4.50	4.40	2.50	4.20	4.25
3/15	3.70	5.75	4.80	3.10	5.25	4.60	2.80	4.70	4.40	2.60	4.40	4.25
3/31	3.90	5.85	4.80	3.30	5.35	4.60	3.00	4.80	4.40	2.80	4.50	4.25
4/15	4.10	5.95	4.20	3.55	5.45	4.00	3.15	4.90	4.00	2.95	4.60	3.85
4/30	4.10	6.00	4.00	3.55	5.50	3.80	3.15	4.95	3.60	2.95	4.65	3.45
5/15	4.10	6.10	4.00	3.55	5.60	3.80	3.15	5.09	3.60	2.95	4.75	3.45
Lb. Av.	3.82	5.69	4.62	3.25	5.19	4.42	2.93	4.68	4.24	2.75	4.34	4.09
Inc. - (Dec.)		45%	(22%)		60%	(17%)		60%	(10%)		58%	(06%)
5/31	4.20	6.15		3.65	5.65		3.20	5.10		2.95	4.80	
6/15	4.25	6.35		3.70	5.85		3.25	5.30		2.95	5.00	
6/30	4.25	6.00		3.70	5.75		3.25	5.20		2.95	4.90	
7/15	4.30	5.90		3.75	5.65		3.30	5.10		3.00	4.80	
7/31	4.35	5.70		3.80	5.50		3.35	5.06		3.05	4.75	
8/15	4.55	5.35		4.00	5.35		3.55	4.90		3.25	4.65	
8/31	4.70	5.25		4.15	5.25		3.70	4.80		3.40	4.55	
9/15	4.82	5.35		4.32	5.35		3.87	4.90		3.57	4.65	
9/30	4.72	5.35		4.22	5.35		3.77	4.90		3.47	4.65	
10/15	4.63	5.45		4.12	5.45		3.67	5.00		3.37	4.75	
10/31	4.92	4.95		4.42	4.95		3.95	4.50		3.67	4.30	
11/15	5.05	5.10		4.55	5.10		4.10	4.70		3.80	4.50	
11/30	5.05	5.10		4.55	5.10		4.10	4.70		3.80	4.50	
12/15	5.05	5.00		4.55	4.80		4.00	4.60		3.70	4.45	
12/31	5.05	5.00		4.55	4.80		4.00	4.60		3.70	4.45	
Yearly Lb. Av.	4.34	5.55		3.80	5.28		3.39	4.81		3.14	4.53	
% Inc.		28%			38%			42%			44%	

	31/35			36/42			43/50			51/55			56/65		
	'78	'79	'80	'78	'79	'80	'78	'79	'80	'78	'79	'80	'78	'79	'80
1/15	2.46	3.45	3.95	2.06	3.20	3.35	1.91	2.85	3.00	1.61	2.45	2.35	1.41	2.15	2.00
1/31	2.46	3.55	4.15	2.06	3.30	3.55	1.91	2.95	3.20	1.61	2.25	2.55	1.41	2.25	2.20
2/15	2.10	3.80	3.75	1.75	3.55	3.15	1.55	3.20	2.80	1.35	2.80	2.15	1.15	2.50	1.80
2/28	2.18	3.80	3.75	1.80	3.55	3.15	1.60	3.20	2.80	1.40	2.80	2.15	1.20	2.50	1.80
3/15	2.25	4.00	3.75	1.90	3.75	3.15	1.70	3.40	2.80	1.50	3.00	2.15	1.30	2.70	1.80
3/31	2.40	4.10	3.75	2.05	3.85	3.15	1.85	3.50	2.80	1.65	3.10	2.15	1.45	2.80	1.80
4/15	2.55	4.20	3.65	2.20	3.95	3.05	2.00	3.60	2.75	1.80	3.20	2.10	1.60	2.90	1.75
4/30	2.55	4.25	3.30	2.20	4.00	2.80	2.00	3.65	2.50	1.80	3.25	1.90	1.60	2.95	1.55
5/15	2.55	4.35	3.30	2.20	4.10	2.80	2.00	3.75	2.50	1.80	3.25	1.90	1.60	2.95	1.55
Lb. Av.	2.39	3.94	3.71	2.02	3.69	3.13	1.84	3.34	2.79	1.61	2.90	2.16	1.41	2.63	1.81
Inc. - (Dec.)		65%	(06%)		80%	(18%)		80%	(19%)		80%	(34%)		86%	(45%)
5/31	2.55	4.40		2.20	4.15		2.00	3.75		1.80	3.25		1.60	2.95	
6/15	2.55	4.60		2.20	4.30		1.95	3.75		1.65	3.25		1.40	2.95	
6/30	2.55	4.40		2.20	4.00		1.85	3.15		1.50	2.60		1.20	2.10	
7/15	2.60	4.30		2.35	3.85		2.00	3.05		1.65	2.50		1.35	2.10	
7/31	2.70	4.25		2.45	3.60		2.10	3.00		1.75	2.35		1.45	2.00	
8/15	2.90	4.10		2.65	3.40		2.30	3.00		1.95	2.35		1.65	2.00	
8/31	3.05	4.00		2.80	3.40		2.45	3.00		2.10	2.35		1.80	2.00	
9/15	3.22	4.10		2.97	3.50		2.62	3.10		2.22	2.45		1.92	2.10	
9/30	3.12	4.10		2.87	3.50		2.52	3.10		2.12	2.45		1.82	2.10	
10/15	3.02	4.20		2.77	3.60		2.42	3.20		2.02	2.55		1.70	2.20	
10/31	3.32	3.80		3.07	3.20		2.67	2.80		2.30	2.15		2.00	1.80	
11/15	3.40	4.00		3.15	3.40		2.80	3.00		2.40	2.35		2.10	2.00	
11/30	3.40	4.00		3.15	3.40		2.80	3.00		2.40	2.35		2.10	2.00	
12/15	3.30	3.95		3.05	3.35		2.70	3.00		2.30	2.35		2.00	2.00	
12/31	3.30	3.95		3.05	3.35		2.70	3.00		2.30	2.35		2.00	2.00	
Yearly Lb. Av.	2.77	4.07		2.46	3.64		2.18	3.21		1.87	2.66		1.62	2.33	
% Inc.		47%			47%			47%			43%			44%	

SUMMARY OF PRICING: (1979 - vs - 1978 & 1980 - vs - 1979)

1978 Pound Average Year End 2.84
1979 Pound Average Year End 4.01
% Increase 1979 - 1978 .41%

1978 (4 1/2 Mos.) 1/1 - 5/15 Pound Average 2.46
1979 (4 1/2 Mos.) 1/1 - 5/15 Pound Average 4.04
% Increase 1979 - 1978 .63%
1980 (4 1/2 Mos.) 1/1 - 5/7 Pound Average 3.44
% Decrease 1980 - 1979 (.18%)

EXHIBIT

STATEMENT OF MICHAEL R. JAMES, EXECUTIVE VICE PRESIDENT AND CHIEF EXECUTIVE OFFICER, C & L BANK OF BRISTOL

Mr. Chairman, my name is Michael R. James, Executive Officer of the C & L Bank of Bristol, Bristol, Florida. I have served in this capacity for approximately three years while residing in Liberty County, Florida, preceded by seven years in the banking industry. The majority of this previous service has been in the Florida panhandle area as a bank examiner for the office of the Comptroller, State of Florida. I feel this experience has given me considerable insight into many of our area's industries and their problems, and would like to address one such problem.

The fishing industry is in dire need of immediate government assistance. Unless this assistance is granted, the effect on our local economy will be drastic. The largest industry within Liberty and Calhoun counties is Rysco Shipyard, Inc. The shipyard cannot survive without a fishing industry, as the boats they construct are largely fishing vessels. Without this shipbuilding industry our economy would suffer a loss of a two million dollar annual payroll, one-hundred fifty jobs, and not to mention the effect on local merchandising which amounts to five to six million dollars annually. One can readily see the "spin off" impact this can have on local banks. The C & L Bank of Bristol is, moreover, the only bank in Liberty County through which its citizens financial needs can be met. The loss of the shipbuilding industry would directly effect our citizen's bank with the loss of some of fifty depositors, representing in excess of three quarters of a million dollars in deposits annually. This problem is again compounded in the fact that those deposits represent available loanable funds within our local economy which fund and support local agriculture, home building, and new business to only begin.

Please be aware of the above mentioned facts, consider the far reaching effects of the fishing industry on the North Florida economy, realize the impact, and you will agree, assistance is imperative.

STATEMENT OF EUGENE VANDERGRIFFT, VANCO SEAFOOD, INC.

Mr. Chairman, members of the subcommittee, my name is Eugene Vandergrifft, I am President of Vanco Seafood, Inc., located in Freeport, Texas. I would like to take this opportunity to comment on this most important bill H.R. 7039.

Prior to January 1979 I was a working shrimp fisherman. As an owner operator of shrimp trawlers for more than a quarter of a century I am no stranger to crisis. The shrimp industry has survived hurricanes, floods, pesticide contamination, droughts, and an overwhelming influx of investor owned vessels, these things we have been able to overcome, because we had the patience and intestinal fortitude necessary for survival. The crisis we now face cannot be cured by patience. Time is the enemy, the longer we have to wait the more certain the outcome, which is total chaos in the entire seafood industry.

There are two major causes for our present crisis. First the energy problem. I am sure you are very much aware of this one. Second is a depressed market created by the energy problem and the fact that the domestic shrimp industry is competing on the world market with many underdeveloped nations whose governments subsidize their fishing fleets. Our country then imports these products which come in at lower prices free of any quota or tariff and are marketed at the expense of our industry. There are many other problems that effect our industry, such as, the high cost of money and the disaster that occured in the Texas bay system in 1979. The one thing we in the fisheries all have in common is the high cost of fuel.

At an industry meeting in Washington recently government people in attendance predicted worse times to come, they said fuel may reach $1.50 a gallon by July. The Gulf shrimp fleet have tied their boats to the dock during our off season because the price of fuel is $.95 per gallon, if fuel prices reach $1.50 a gallon by July we will not be able to operate even during our productive season.

Long term solutions such as changing methods of operation, new gear technology, the use of alternative fuels and developing new fisheries are all in the works at this time. The seafood industry needs immediate help. Without immediate relief we will not be around to see the benefits of our long range plans.

I believe Congressman Breaux's fisheries development bill is an excellent plan for the rehabilitation of the U.S. fisheries. For the most part I would support this bill, however, there are certain sections on which I have some reservations.

The fisheries loan fund section 212 states "potential defaults on title XI guaranteed loans would receive priority assistance over other potential defaults." I do not believe such priority should exist. The loans should be based on individual need available to all vessel owners.

The phase out of foreign fishing section 301. I have some reservations about a five year program to terminate all foreign fishing, it seems to me we should remember that Mexico did just that to the domestic shrimp fishery and as the result the industry is suffering and the Mexican fishery still does not have the capability to produce the resource, it seems such a terrible waste. Perhaps we could phase out foreign fishing based on our ability to produce the resource. We might also consider trade off of fishing rights for different species. Such as trading fishing permits with Mexico which would allow our producers to catch shrimp and the Mexicans to produce squid.

We must also keep in mind that we import more than 50 percent of the fishery products that are consumed in this country. Much of this product comes from our own waters and we need it to maintain our market. It would be great if we could produce all the seafood consumed in this country, but at present we cannot, and it is a good bet that we never will. The greatest shortage of this century is energy. The next great shortage may very well be protein.

I sincerely thank you for allowing me the opportunity to testify.

First National Bank,
Rockport, Tex., May 7, 1980.

To Whom It May Concern:

Knowing that a number of persons connected with the Texas Gulf Coast Shrimping Industry will testify in Washington, D.C. in the near future, the following observations are offered by the undersigned:

If the shrimping industry were completely shut down about 40 percent to 50 percent of the gross income of the area comprising Aransas County would be cut off.

Due to the extremely high cost of fuel, as well as other costs of operation, the shrimping fleet on this coast is very much disadvantaged as to the cost per pound of shrimp landed in our ports.

Unless something is done to place our shrimping fleet in a competitive position with fleets from neighboring countries, it appears likely that over a relatively short period of time Texas Coast Shrimping may become extinct as well as its allied and support industries.

The writer urgently requests that some viable solution be offered to this invaluable industry.

Sincerely,

James H. Sorenson, Jr.

Statement of C. B. Sandusky, President, Ellis Bank of Blountstown

Mr. Chairman, my name is C. B. Sandusky, president, Ellis Bank of Blountstown, Blountstown, Florida. I have, by choice, been a resident of Northwest Forida all my adult life and for the past twenty (20) years have been an officer of banks in this immediate area.

I am seeking your assistance in helping our community solve a critical problem that faces us.

First let me tell you something about our community. The Calhoun-Liberty County area is located in the Florida panhandle along the Apalachicola River. It is basically a small (12,000 population) rural farming area with very little industry. We have worked very hard to obtain what industry we do have and now we find ourselves faced with the possibility of losing our largest industry, RYSCO Shipyard.

RYSCO came to our area in 1973 and began producing steel hulled "Shrimp Trawlers". They began their operation with 50 employees and an annual payroll of $750,000. Since 1973 RYSCO has grown to 150 employees which RYSCO has trained at their own expense with an annual payroll of nearly $2,000,000. This payroll boosted our economy by providing jobs for a dependable, industrious, but underemployed local labor force, and with the multiplier effect, has provided jobs for many others in the community such as local retail merchants, home builders and service organizations.

Due to the dire problems facing the fishing industry, orders for RYSCO's product have been greatly reduced. Unless immediate government assistance is forthcoming, our community will suffer an even greater unemployment problem and the other economic ills that accompany this economic environment.

The survival of the shipyard is directly related to the survival of the fishing industry and our economy is directly related to the shipyard.

Since the largest portion of the above $2,000,000 payroll is initially deposited in our bank, and since most of the merchants who provide goods and services to those receiving this payroll are customers of our bank, the above $2,000,000 would be only a portion of our direct loss.

Your attention and consideration of our problem and the problem of the fishing industry would be greatly appreciated.

STATEMENT OF DICK ELLIS, PRESIDENT, TEXAS GULF SHRIMP CO.

Mr. Chairman and members of the subcommittee, I greatly appreciate your interest in our fisheries problems and your efforts to help save the most valuable fishery in the United States, which was valued at $2.6 billion in 1978. First, I would like to direct my comments to specific provisions of your bill:

Section 212

Emergency money should be made available to keep boat owners from losing their boats. These boats, guaranteed by Title XI funds, should definitely be protected. The U.S. Government doesn't want the boats. We don't want the defaults on our record. To protect us and U.S. interests, this should be done immediately.

We also believe that a 25 percent initial cash payment should be established. The provision for no new loans may have to be extended.

Section 302

This is a good provision, as is Section 101.

Section 101

Fuel efficiency should be pushed. Voluntary fish inspection, with emphasis on voluntary, is good.

Section 201

This has long been needed to improve our shore facilities and processing facilities. Title XI loans should be used for shore facilities.

Section 301

This is a good provision, but doesn't affect the U.S. shrimp industry as much as other fisheries.

Section 311

Good provision.

Section 102

Good provision.

While the above provisions of the bill are good, they may not go far enough to solve the problem of the man who has the bank telling him to have the money within 30 days or lose his boat.

What are the major problems facing the shrimp industry today?

(1) High fuel prices in the United States coupled with foreign fleets being subsidized and thereby being able to undercut our U.S. prices.

(2) High imports of seafood products without quotas or duties placed on the foreign imports.

(3) Over fishing and over construction.

(4) Too much outside capital being pumped into the fisheries.

To save our indstry until some of these provisions can be made into law, we need immediate help.

(1) Emergency money made available through either Title XI or by SBA or a letter of credit extended to delay the bank from foreclosing.

(2) Long term financing should be made at low interest rates to assure the fisheries of attaining a stable condition.

(3) A fuel subsidy may have to be imposed if the industry is to survive.

(4) Limited entry into the Gulf shrimp industry should be considered, with a license for each existing vessel. No new licenses should be issued.

(5) Quotas and tariffs may be necessary to raise the price of shrimp to a level where the U.S. Gulf shrimp industry can compete profitably with foreign interests.

What can the shrimp industry do to help our ailing industry?

(1) Agree to stop building new boats by limited entry.

(2) Explore the long line and tuna possibilities, which we are now doing.

(3) Stop our fleets from fishing, which we are doing now.

(4) Agree to stay out of the Gulf for two months, as recommended by Gulf Marine Council.

(5) Increase our efficiency.

(6) Pray and hope that some of the above will be implemented immediately.

Thank you for this opportunity to comment.

Fishing Vessel Owners' Association, Inc.,
Seattle, Wash., May 15, 1980.

Congressman **Breaux,**
Chairman, Merchant Marine and Fisheries Committee,
Washington, D.C.

Dear Chairman Breaux, my name is Robert D. Alverson, I am the manager of the Fishing Vessel Owners Association of Seattle. Our vessels operate in the waters from Southern California to those adjacent to the Soviet Union in the Bering Sea. We fish for Halibut, Blackcod, Pacific Cod, Ling Cod, and Albacore Tuna.

I am sorry that I am unable to attend the Merchant Marine and Fisheries Committee meeting on the legislation known as the American Fisheries Promotion Act. Some of the key points of this legislation we would like you to know our thoughts on.

NEW FEES ON FOREIGN FISHERMEN, SEC. 302

The cost of the foreign fishing operation off the coast of the United States in terms of management are significant. The council system cost $6,196,000 in 1978; $6,742,000 in 1979; it is expected to cost $8,035,000 during 1980 and $8,600,000 during 1981. (From NPFMC Anchorage). In addition to this the cost of the United States Coast Guard and other governmental support agencies from the States involved make the total management cost very considerable.

The Fishing Vessel Owners Association has been questioning for sometime why the U.S. tax payer continues to pay the entire bill when so much of the benefits of management are harvested by the foreign distant waterfleets.

We support the 10 percent charge on ex-vessel prices to foreigners. Foreign participants should begin paying their share of the benefits of having a management program. The idea of allowing foreign nations to continue harvesting our resources worth an estimated $300 to $400,000,000 off Alaska alone, for which they pay .035 for a permit is not good business on our part. The 10 percent amount is not an uncommon cost to charge for conducting business, in fact today it is very reasonable.

The Association would like to see the majority of the generated revenue go to pay for the council management system and provide additional research and gear development through the regional National Marine Fisheries Service offices. We are opposed to having the funds directed toward the S-K program. The money generated for the 10 percent charge should go to defraying the cost of the management councils and to more fishery research programs. At the present time the regional National Marine Fisheries Service research centers that support the councils with scientific information do not have adequate research funding. The S-K program has its own established program at this time for funding and though it may be lacking funds the revenue from the permits should go to defray management and research.

CAPITAL CONSTRUCTION FUND

We support shoreside facilities participating in the CCF. We are strongly opposed to providing this tax deferal program to those companies with more than 25 percent foreign ownership for the following reasons.

1. With 70 percent of Alaska processing in the hands of the Japanese we feel that foreign investment has proceeded just fine without additional help. In 1970 only 20 percent of Alaska processing capability was owned by the Japanese now it is over 70 percent. (Alaska legislative study)

2. To provide foreign controlled processors with a CCF program will increase the flow of U.S. dollars out of the United States and further hurt the balance of payments.

3. As U.S. tax payer will be paying in terms of higher taxes to let processors defer income into the CCF program we should like to see U.S. business be the recipient of any benefit rather than foreign interest. We want to see the dollars stay home and facilitate U.S. business.

4. It should be noted that those companies that are heavily controlled by the Japanese have made no meaningful progress toward bottomfish development. Those that are predominantly U.S. owned are promoting test fishing and trying to get involved.

We fear that the following has happened. The Japanese partners have convinced their U.S. partners not to bid up the price of bottomfish because the Japanese partner can supply the U.S. partner with cheap product from his Japanese fleet participating in the Bering Sea and Gulf of Alaska. The U.S. partner would only have the duplicate the processing ability of its Japanese partner at inflated costs and have to pay a higher price for the fish anyway to support a U.S. fishing vessel. The logical consequence is to use the U.S. partner to transfer foreign caught bottomfish into the U.S. market from his Japanese partner.

PHASE OUT OF FOREIGN FISHING SECTION 301

The Fishing Vessel Owners Association supports whole heartedly the concept of phasing out foreign participation. We recognize that the FCMA was developed on the full utilization concept, but this is not necessarily consistent with national policy in all producing sectors of the country.

When acreage is left unplanted and in a sense is surplus for potential agriculture we do not allow foreigners to come in and cultivate unutilized farm land and market the products; when prices fall and timber is not cut we do not allow foreigners to come in to make sure the trees are cut; however when our national mentality is underutilized the results have been that the Japanese do cut the trees into lumber, butcher our beef, and catch our fish and sell it all back to us.

With the failure of the nations largest fish company, New England Fish Company; other U.S. processors close to that circumstance, and with national unemployment jumping at 2 percent during the month of April protectionism for U.S. industry may not be all that bad. The Congressional representatives from the automotive states and steel producing states don't either.

The F.V.O.A. realizes that the phase out as put in the bill is in conflict with the U.S. Law of The Sea position. We therefore propose the following concept of phase out.

When the domestic harvest of a fishery resource has reached 25 percent of the established optimum yield in the geographic management area then the foreign nations that at that time have allocations would be allowed to participate three years longer on that resource with one third of their allocation being dropped each successive year. This scheme would:

1. This would establish the domestic industries undisputed ability and interest to harvest a resource, by requiring 25 percent of the O. Y. to be utilized by the U.S. industry.
2. It would compliment the U.S. Law of the Sea position so that the U.S. would not be viewed as hoarding renewable resources without a definitive demonstration of intent or ability to achieve full utilization.
3. This would then provide an orderly exit for foreign participant thus giving U.S. industry a quanitative financial tool to obtain financing.

SEC. 311

The agency that should be testifying before this committee is the U.S. Coast Guard. The observer program provides two vital functions, first, obtaining catch statistics and second, a deterrent to violation of FCMA regulations.

The Association feels that the current observer coverage is inadequate in both areas. We are surprised that U.S. Coast Guard has not been invited to testify. We suggest that the Coast Guard enforcement records show that major violations of foreign underlogging of catches are taking place. (see NPFMC attachments) (Underlogging could well be above 25 percent fleet side by certain nations.)

The NMFS Washington office claims 15 to 20 percent observer coverage but in reality with one observer on a vessed that operates 24 hours a day actual observer coverage is more like 8 to 10 percent of the fishing operation.

It is somewhat confusing to hear the director of N.O.A.A., Mr. Frank, speak against the requirement of having observers when the regional directors of NMFS present at the North Pacific Management Council and Pacific Management Council say that observer coverage is inadequate.

The Commerce Department in the name of resource protection for porpoise require observers on U.S. Tuna vessels, but can not support increased observer coverage at a cost to the foreigners on foreign vessels to prevent over fishing practices, this is hardly consistent.

It should also be noted that the North Pacific Fishery Management Council has indicated it could be more flexible concerning area closures if provided additional observer coverage.

The Fishing Vessel Owners Association does not understand the discrepancy between the concerns of the U.S. Coast Guard representative and the concerns of the regional offices of NMFS regarding inadequate observer coverage and the views expressed by the Washington office.

Very Truly Yours,

ROBERT D. ALVERSON,
Manager.

To Jim Branson
From: Ron Naab

Dec 10, 1979

AGENDA ITEM H5 DEC 1979

DEC 10 1979
9:30 a.m.

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November 28, 1979

Mr. Jim H. Branson
Executive Director
North Pacific Fishery Management Council
P.O. Box 3136-DT
Anchorage, AK 99510

Dear Jim:

At long last, attached is a tabulation which indicates the violation records during 1978 and 1979 of the Polish and South Korean vessels which have applied for a 1980 FCMA permit, as listed in your letters of October 15 and October 19, 1979. In the tabulation, those vessels identified with the symbol "$" have committed what may be considered serious violations. The identities of those vessels involved in serious violations was passed to your office in a telephone conversation with Mark Miller a couple of weeks ago. Your letter of November 13 requested further details on those serious violations and summary paragraphs regarding them are also attached.

There appears to have been some confusion concerning the violation records of the South Korean vessels DAE JIN No. 52 and DAE SUNG HO which were listed in your letter of November 13. Our records indicate the DAE JIN No. 52 was issued a Violation Report for fishing in a closed area which, upon later review, was dismissed as unfounded. The DAE SUNG HO is shown in our records as having been issued a Citation for a minor fishery violation. In my opinion, neither of those ships should be denied a 1980 permit based upon those violation records.

Look forward to seeing you and others of the Council staff at the December meeting.

Sincerely,

R. C. Naab
Special Agent in Charge

cc/attachments:
Naab
GCAK Travers
Brooks
Ridtze
McVay

Copies sent 11-29-79

RCNAAB:mlj 11/28/79 File:

JA-80-0300 EIKYU MARU No. 11/JFES
Violation issued August 9, 1979, for failure to maintain an accurate cumulative catch log - underlogging and for failure to properly check out on June 28, 1979. Case pending ✓

JA-80-0337 TSUDA MARU/JPTB
Vessel seized January 26, 1979, in position 5834N 17615W for gross underlogging of the catch in the DCCL. Vessel was released on $350,000 bond. NOAA suspended the vessel's permit for five month July 5-December 4, 1979. Settlement of the civil forfeiture action against the vessel is pending.

JA-80-0423 EBISU MARU No. 38/JRCI
Vessel seized October 16, 1979, in position 5244N 17136 W for gross underlogging of the catch in the DCCL. A 47.6 metric ton underlog, or 20 percent, was detected. Case Pending

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JA-80-0464 KAIYO MARU No. 53/JCAY
Vessel seized June 1, 1979, 22 miles southeast of Kiski Island in the western Aleutians in position 5141N 17803E for retention of prohibited species and failure to maintain a proper DCCL. Vessel released on $250,000 bond July 10 after forfeiting its catch. NOAA revoked the vessel's permit without prejudice on July 11, 1979. Settlement of the civil forfeiture action against the vessel is pending.

JA-80-0542 FUKUI MARU No. 8/JDYN
Violation issued May 13, 1979, in position 5801N 17344W for failure to maintain a proper DCCL. The vessel had kept a running total for more than one area in a single entry. Case pending

JA-80-0607 EIKYU MARU No. 82/JGUV
Violation issued May 27, 1979, in position 5400N 16232W for failure to maintain a proper DCCL. The DCCL showed 66,000 pounds less than in the fish holds, a 10 percent discrepancy. Case pending

TW-80-0001 TAI CHANG No. 1/BYIX
(Vessel changed name to SEA LIGHT) Violation issued on August 11, 1977, for failing to sort the catch and return prohibited species to the sea immediately. The vessel has failed to pay a civil penalty of $15,000 and at present has a permit suspension invoked against it. ✓

DCCL catch
Documented Cumulative Log

TW-80-0002 HIGHLY No. 301/BVRV

Vessel seized September 1, 1977, 109 miles NW of Cape Sarichef in position 5501N 16720W for retention of species for which Taiwan did not have an allocation. On August 13, 1977, the same vessel had been issued a report of violation for failure to minimize its catch of prohibited species. The seizure was made for retention of 13,900 pounds of non-allocated species, or 30 percent of the total catch. A civil penalty of $335,000 and forfeiture of the catch was made. This vessel was again seized on August 19, 1979, along with the HIGHLY No. 302 for gross underlogging its catch. The civil penalty paid was $250,000. The seizure was made at 5836N 13938W, 4 months after a citation had been issued for the same infraction. In all, since the start of FCMA, the HIGHLY 301 has been issued 3 citations, one violation, been seized twice, and paid penalties of $585,000.

TW-80-0003 HIGHLY No. 302/BYCM

Vessel seized on August 19, 1979, in position 5836N 13938W for gross underlogging of its catch in the DCCL. Vessel paid a civil penalty of $250,000.

UR-80-0229 MYS CHAIKOVSKOGO/UUDU

Violation issued for improperly maintaining the DCCL and submitting inaccurate weekly catch reports for the period February 1-13, 1979. The violation was issued on information provided by a U.S. Fisheries Observer. Case pending

UR-80-0620 ARZAMAS/EVOF

Violation issued July 27, 1979, for failure to properly maintain an accurate DCCL - underlogging of rockfish. Case pending

MX-80-0052 KORMEX 1/XCKO
MX-80-0055 KORMEX 5/XCKE

Violation issued November 1, 1979, by NMFS for fishing in the western Gulf of Alaska when no allocation exists for Mexico in that area during the new fishing year commencing November 1, 1979.

MX-80-53 KORMEX 2/XCKR

Three violations issued. The first violation was issued on March 6, 1979, in position 5257N 16448W for failure to immediately return prohibited species to the sea. At the same time an additional violation was issued for failure to maintain an accurate DCCL on an area by area basis. Civil penalties of $11,000 were paid. The third violation was for fishing in the western Gulf of Alaska in a new fishing year commencing November 1, 1979, without an assigned quota for that area.

Prepared By:

Law Enforcement Branch
NMFS, Juneau.
December 7, 1979

Prepared November 21, 1979
Law Enforcement
NMFS, Juneau

KS-80-0094	NO. 105 O DAE YANG	*
KS-80-0095	NO. 303 DAI HO	Citation for improperly kept call sign.
KS-80-0099	NO. 106 O DAE YANG	*
KS-80-0100	MIN WOO NO. 1	*
KS-80-0101	MIN WOO NO. 11	*
KS-80-0102	MIN WOO NO. 17	*
PL-80-0003	LEPUS	*
PL-80-0004	PERSEUS	*
PL-80-0007	ORINWAL	*
PL-80-0008	GARNELA	*
PL-80-0009	WALEN	Citation for minor logkeeping errors.
PL-80-0010	WLOCZNIK	*
PL-80-0011	OTOL	*
PL-80-0012	MUSTEL	*
PL-80-0013	FOKA	*
PL-80-0014	PLETWAL	*
PL-80-0016	SEJWAL	*
PL-80-0017	KASZALOT	*
PL-80-0019	MUNNAK	*
PL-80-0027	KASZUBY 2	*
PL-80-0029	HALNIAK	*
PL-80-0030	LEWANTER	*
PL-80-0031	POMORZE	*
PL-80-0033	SURAN	*
PL-80-0034	MARLIN	*
PL-80-0039	KALMAR	*
PL-80-0041	ZULAWY	*
PL-80-0045	TUNK	*
PL-80-0046	GEMINI	*
PL-80-0049	GRYF POMORSKI	*
PL-80-0050	KOLIAS	*
PL-80-0052	MANTA	*
PL-80-0053	NARWAL	*
PL-80-0054	TAPAR	*
PL-80-0055	VEGA	*
PL-80-0056	SATURN	*
PL-80-0060	AMIOR	Involved in gear loss conflict, no official loss reported to NMFS as of this date.
PL-80-0051	WINETA	*
PL-80-0062	SIRIUS	*
PL-80-0063	MORS	*
PL-80-0064	RYBAK MORSKI	*
PL-80-0065	DELFIN	*
PL-80-0066	HAJDUK	*

*-indicates no violation $-serious $$-extremely serious

1. SEO YANG HO/6MME (KS-80-0002)

   Vessel seized 120 miles northwest of Unimak Pass on October 9, 1979 for gross underlogging of catch as reported in the Daily Cumulative Catch Log. (DCCL) The vessel's catch indicated a 32% (709 m.t.) underlog in the DCCL. Bond was set at $250,000 and the vessel released November 7, 1979. Case pending.

2. CHEOG YANG HO/6LZV (KS-80-0003)

   Vessel issued two violations 100 miles northwest of Unimak Pass on February 16, 1979 for untimely sorting of the catch and failure to return prohibited species immediately to the sea. A small amount of halibut and Tanner crab remained in the factory area 2 1/2 hours after the catch was landed. Case pending.

3. PUNG YANG HO/6MLS (KS-80-0004)

   Vessel siezed 120 miles northwest of Unimak Pass on October 9, 1979 for gross underlogging of catch as reported in the DCCL. The vessels catch indicated a 34% (664 metric ton) underlog in the DCCL. Bond was set at $250,000 and the vessel released November 7, 1979. Case pending.

4. HEUNG YANG HO/6MZD (KS-80-0006)

   Vessel issued a violation 28 miles northwest of Unimak Pass on June 10, 1978 for failure to maintain an accurate DCCL that included discards. About 1,000 pounds of Atka mackerel was observed in the fish bins and was not recorded in the DCCL. Case pending.

5. NO. 31 DONG WON/6LSV (KS-80-0053)

   Vessel siezed 22 miles southwest of Kayak Island in the Gulf of Alaska on June 20, 1979 for failure to record round weight in the DCCL and failure to log discards. The vessel was released June 30 and awaits civil prosecution.

Daily Cumulative Catch Log

DCCL

6. O DAE YANG 212/6MUZ (KS-80-0063)

Vessel issued 16 separate violations counts on November 7, 1978 for failure to maintain a Daily Cumulative Catch Log on 16 days during the period September to November, 1978. Case pending.

7. KYUNG YANG HO/6NBI (KS-80-0085)

Vessel issued a violation 90 miles southwest of St. Paul, Pribilof Islands on January 31, 1979 for untimely return of prohibited species to the sea. There was 326 pounds of salmon and 132 pounds of halibut in holding bins 2 1/2 hours after the catch had been landed. Case pending.

Prepared by:
Law Enforcement Branch
NMFS, Juneau
November 21, 1979

Pacific Fishery Management Council,
Portland, Oreg., May 16, 1980.

Hon. John B. Breaux,
Chairman, Subcommittee on Fisheries, Wildlife Conservation, and the Environment of the Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

Dear Mr. Chairman: The Pacific Fishery Management Council appreciates the opportunity to comment on H. R. 7039, the American Fisheries Promotion Act, and requests that these comments be entered into the hearing record for that Bill.

The Council commends your leadership in carrying forward legislation to expand the capabilities of all sectors of the U.S. fishing indusrty to utilize more fully the fisheries resources off our shores. The Council endorses the need for a U.S. policy and program which will assist domestic fishermen, processors, and distributors to benefit to the fullest extent possible from development of fishery resources to which they now have priority access under the extended jurisdiction provisions of the Fishery Conservation and Management Act of 1976. Your own comments introducing your bill in the House of Representatives on April 15 very effectively outlined the importance of expanding U.S. capabilities to develop these rich resources.

The Pacific Fishery Management Council believes that its principle purview for comment concerns Title III of H.R. 7039: Amendments to the Fishery Conservation and Management Act of 1976. Particularly the Council endorses and supports Sec. 311 and its provisions for implementation of a full observer program through creation of the Foreign Fishing Observer Fund, into which observer support fees would be paid as collected from foreign vessels, and from which the Secretary could draw funds to support an observer aboard every foreign fishing vessel operating in the Fishery Conservation Zone. Repeatedly this Council's efforts to increase observer surveillance over foreign fishing has been frustrated by absence of any such automatic flow-through of observer fees, and by the total inadequacy of appropriated funds to meet that need. This Council has repeatedly called for 100 percent observer coverage of foreign fishing vessels operating off the Pacific Coast, and has repeatedly urged that foreign fees collected for that purpose be applied directly and promptly to meet that need.

The Pacific Fishery Management Council also has repeatedly advised federal authorities that the fee schedule for foreign fishing permits remains far too low, not in line either with the value of the fish taken or with prevailing fee schedules around the world. The Council therefore endorses the provisions of Sec. 302, to add to other fees paid by foreign fishermen a surcharge fee of 10 percent of the ex-vessel value of the catch. The Council believes that this provision, coupled with increased operating costs which prevail worldwide, can contribute significantly to the phase-out of foreign fishing in U.S. waters.

As a lever to assist the development of U.S. markets abroad and thereby reduce our negative balance of payments, the Pacific Fishery Management Council also endorses provisions of Sec. 301, which would make foreign trade barriers a mandatory consideration in the allocation of surplus fish to foreign fishermen. While authority to do so may exist under the present law, the Council believes there is value in strengthening any such implicit authority through this explicit expression of Congressional intent.

The Pacific Fishery Management Council agrees with the intent of Sec. 301 as a whole to accelerate the phase-out of foreign fishing in U.S. waters. However, the Council notes that existing provisions of FCMA, as well as demonstrated actions by the Regional Councils established under the Act, provide adequate authority to achieve that objective over a time-scale closely geared to U.S. capacity to harvest those resources. U.S. takeover from the Japanese of the tanner crab fishery off Alaska is an effective illustration of this constructive interaction between strongly developing U.S. industry capabilities, and North Pacific Council provisions to accommodate and support that spectacular growth.

The Pacific Fishery Management Council believes that the Councils can use authorities and techniques presently in place to scale-back foreign fishing consistent with the growing capabilities of our domestic fisheries to harvest and process presently underutilized resources. Through optimum yield designations which consider socioeconomic factors and therefore domestic industry needs, and through retention of reserves to accommodate unexpected growth of domestic fisheries, the Councils presently are establishing TALFF's which provide adequate margins to promote the orderly growth of domestic fisheries. Therefore, while the Council fully endorses the overall intent of Sec. 301, the Council questions the need for a relatively inflexible timetable for phase-out of all foreign fishing, particularly where flexibility to that schedule can be achieved only through a relatively time-consuming, laborious Congressional review process.

As noted earlier, the Pacific Fishery Management Council believes its specific comments should be confined to management-related elements of H.R. 7039, and therefore will leave detailed commentary on fishery assistance sections up to others. However, because of its major concerns for the economic welfare of all segments of our domestic fishing industry, the Council does wish to urge a sharpening of focus upon development of unutilized and underutilized fishery resources. As you are well aware, certain of the West Coast's most important fisheries already are overcapitalized, and moratoriums on new entries are in place or are under active consideration. In the Pacific Coast salmon fishery, expensive buy-back programs also have been instituted at public expense to reduce the number of vessels and fishermen competing for a sharply limited resource. The Pacific Fishery Management Council therefore urges a strengthening of the expressed intent and the provisions of H.R. 7039 to assure that funds and related assistance will be directed into fisheries and sectors of fisheries which need and can accommodate expansion and further development.

As a final small but important point, some Council members have noted the narrow range specified for the federal funding share of projects approved under Sec. 101 of Title I (not less than 50 percent or more than 75 percent). They observe that many deserving projects might require less than 50 percent federal sharing, and that such initiatives should be encouraged. They further note that for some nonprofit groups, the 75 percent upper limit may pose unsurmountable difficulties.

The Pacific Fishery Management Council wishes again to commend your initiative in carrying this bill forward, and expresses its support for the general intent of that legislation. The Council will be pleased to respond to any request for further information or advice.

Sincerely,

Lorry M. Naka
(For E. C. Fullerton, Chairman.)

STATEMENT OF RALPH RAYBURN, EXECUTIVE DIRECTOR, TEXAS SHRIMP ASSOCIATION

Mr. Chairman and members of the subcommittee, I am Ralph Rayburn Executive Director to the Texas Shrimp Association, a trade association for the Texas Gulf shrimp industry. Unfortunately, I am unable to be present at the industry hearings due to my participation in Annual Training with the U.S. Army Reserves. I request, however, that this testimony be entered into the subcommittee's record on H.R. 7039.

It is my understanding that a number of industry leaders will be supplying testimony to the subcommittee during your hearings which will depict the economic status of individual and corporate operations within the U.S. fishing industry. Hopefully their presentations will include financial information sufficient for you to develop a clear picture of the critical economic condition of the Gulf shrimp industry.

Mr. Chairman, I know that you and members of the subcommittee are well aware of the recent history of the Texas shrimp industry to include the 950% rise in fuel cost during the past 8 years, the elimination of access to the historical fishing grounds off the Mexican coast, and continued market undercutting by products produced with foreign government subsidies. In addition to these factors it should be noted that the Texas Gulf shrimp industry is currently under an Economic Injury Disaster Loan Program through the Small Business Administration. Eligibility for this program is based on the poor production of shrimp during last year's season. While this program has been helpful to renew operating capital and cover short term debts for some industry members, by its very nature, it is not the solution to the problem.

The proposal under discussion, H.R. 7039, appears to provide a significant framework in which to begin the process of renewing vitality within the fishing industry. I must compliment the drafters and sponsors of this legislation as it shows extreme wisdom in understanding both the concerns within the industry and the measures available to overcome these concerns. I would like to comment on each measure as it is found in the bill.

A. Section 101.—The concept of full utilization of the Saltonstall-Kennedy Funds appears necessary during the period in which the industry finds itself. While certainly there are many capable researchers in the Department of Commerce, there is also a vast resource available for fishery development in non-federal programs. In our particular area of the Gulf of Mexico, we have seen over the past few months a rapidly developing interest in seasonal alternatives to shrimp harvesting. These alternatives, promoted by the industry, include the harvest of such species as swordfish, tuna, tilefish, and deepwater shrimp.

In spite of the current effort, some promising activities, may be bypassed or delayed due to inadequate knowledge of effective harvesting, processing and marketing procedures. Many of these deficiencies would be overcome if some means were available to alleviate a portion of the risk involved with the various challenges of development. I have confidence that the private sector, given the right motivation and a certain risk reduction, will develop many of the available resources in the Gulf of Mexico. The use of S-K monies in the manner suggested in H.R. 7039 would help achieve the needed fisheries development.

B. Section 102.—The need to promote U.S. produced seafood products is critical to re-establishing a viable U.S. fishing industry and offsetting the $2.7 billion trade deficit in seafood products. A system of fisheries attachees who would carry out market development, industry intelligence and government liaison, would appear to be a satisfactory manner in which to extend markets and utilization of U.S. seafood products.

C. Section 201.—The use of the Capital Construction Fund has enhanced the development of capital within the fishery by deferring taxes on a portion of the income from the vessel operations. The shortfall in this situation is that these funds must be used for the construction or reconstruction of vessels. In recent years the stimulation of vessel construction has, to a degree, been responsible for the unfavorable economic picture in the shrimp industry.

Additional flexibility in the Capital Construction Fund aimed at using funds in shoreside facilities with a crossover between vessels and facilities should avoid the inflexible sitmulus to vessel construction. This flexibility would allow industry participants to respond to needs within the fisheries, whether they be for new vessels or improved shoreside facilities.

The current criteria for qualified withdrawals from the C.C.F. should also be liberalized. Specifically, approved withdrawals should be made to cover the cost of modifications to vessels or shoreside facilities especially those required by government regulations. Examples of such modifications would be conversion of various electronic gear, installation of marine sanitation devices, new facilities for oil transfer operations, and equipment for waste water treatment. Such costs as those related to the examples above should be qualified under the C.C.F. program irregardless of the percentage of cost in relation to the overall value of the facilities or vessel involved.

D. Section 211.—The use of the Vessel Obligation Guarantee Program within the shrimp fishery has been the source of some controversy. The increase from 75 percent to 87½ percent in the guaranteed portion of the loan has been the main concern expressed. While this change to an extent has increased the number of vessels in the harvesting sector, it has also stimulated individuals to enter into the fishery with a minimal of equity and in some cases a minimal amount of capital. Caution must be exercised to insure that the extension of loan guarantees into shoreside facilities will not experience a similar fate.

The government loan guarantee program is beneficial in times of non-availability of private financing. This situation might soon be experienced as new facilities develop in the Gulf to handle non-traditional species.

Another consideration in the use of C.C.F. and F.V.O.G. Programs is the status of the conditional fishery determination by the Department of Commerce. Recently, a notice of intended rule making was published in the Federal Register indicating the intent of Commerce to review the conditional fisheries designation and either modify or eliminate it. Without the availability of a conditional fishery status, the cyclic nature of free access fisheries will continue to be exaggerated with effort stimulation into the more valuable fisheries during good economic years and more economic depression in times of poor fishing. The aggressive use of the conditional fisheries tool should prove a future benefit to fishery managers in that it would allow for the removal of government stimulation in a fishery which the best scientific information indicates has adequate capacity to harvest and process the available resources. At the same time entry into that fishery would not be limited since theoretically private sources of capital could still be obtained.

The priority of activity in both the C.C.F. and F.V.O.G. Programs should be to develop an adequate harvesting capacity within each fishery under U.S. jurisdiction and up grade vessels to improve operational efficiency as well as stimulate development or expansion of shoreside facilities capable of handling all available seafood products.

E. *Section 212.*—While the economic condition of the fishing industry of this nation is or soon will be in a similar situation, I will address the loan fund of this section in relation to the Texas segment of the shrimp industry.

The Texas shrimp industry is proceeding through a rapid transition period. The primary factors requiring this transition are the exponential rise in fuel costs, the uncontrolled dumping of shrimp on the U.S. markets from countries with artificially low fuel cost or direct fisheries subsidies, and run away inflation which has reduced personal discretionary funds and thereby reduce the demand for seafood products.

Each one of these circumstances has to a great extent been the result of action or inaction on the part of some segments of government. When coupled with the disastrous shrimp production year of 1979, the industry has suffered a severe setback. Individuals who have historically weathered storms, see at best a bleak future.

It does appear, that given the appropriate time, the shrimp industry will make the transition into other fisheries as well as make its shrimp trawling operations much more efficient. The proposal found in this section to protect the vessel owner against default should be helpful to insure continuation of the fisheries during this transition. There should be specific guidelines governing the use of this loan program to include such criteria as:

1. Documented Vessels of the U.S. only.
2. Vessels having a history or the ability of harvesting a fisheries resource from the F.C.Z.

Contrary to the proposed legislation, it is not felt that preferential treatment for loans under this section should be given to holders of Title XI guarantees. During the transition period, default on the part of any competent industry member would send potentially devastating vibrations thoughout the financing industry and probably remove all sources of capital. Furthermore, provisions should be made to mandate that the administration will release the moratorium on use the Fishery Loan Fund for its original use and the use specified in this legislation.

While not disagreeing with the loan concept, it should be realized that as long as free access to the fishery is incorporated into the management regime, there must also be a degree of free exit. Where entrance into the fisheries is open but exit is artificially slowed by support of submarginal operations, the fishery will have a problem of fleet expansion beyond the needed capacity to harvest the resource. In this situation not even the most effective industry members would be able to withstand the poor economic conditions which would result. Use of this loan fund, therefore, should be well calculated. Eligibility should be based on fishing experience, past history of successful fishing operations, and an adequate program to insure that the applicant will be able to renew viability in his operations.

F. *Section 301.*—The Texas shrimp industry has watched as Mexico effectively eliminated all foreign fishing for shrimp in their waters in spite of scientific information agreed upon by both sides that a surplus does exist in the Tampico Fishing Grounds of the Western Gulf of Mexico.

To put foreign countries on notice that their claim to fish our waters will terminate in 1985 unless Congress rules favorably on an exception would simply reaffirm, the position taken in the Fishery Conservation and Management Act of 1976 (F.C.M.A.). Unfortunately, in the past it appears that the State Department has been all to willing to use our fisheries as a plum for some completely unrelated item of interest even to the detriment of the domestic fishing industry. Congressional involvement in fishery allocation to foreign countries should make decisions much more responsive to industry concerns.

F. *Section 302.*— The use of permit fees to cover projects of benefit to the domestic fishery is certainly a wise decision. While the taxpayer will ultimately benefit from a healthy fishing industry, the economic situation would be considered and taxpayers should not be called on to bear the burden of the projects mentioned in this bill.

G. *Section 311.*— Much can be learned through observation of foreign fishing activities. With the recent announcement by the Coast Guard that they will reduce their observations of foreign fishing fleet activity due to operating costs it would seem even more important that a sound observor program be implimented to insure compliance with harvest restrictions. As a side benefit, observors could aid in the transfer of technology from the foreigh vessels.

In addition to the sections found in H.R. 7039, additional ideas on aids to the fishing industry have been developed. In discussions during the March 17 meeting with representatives of national fisheries industries and later at the convention of the Texas Shrimp Association, it became clear that there are basically two approaches to the crisis facing the industry. The first approach is to reduce the cost of operation in domestic fleets, specifically the cost related to fuel, while the second is to increase the cost of foreign produced products competing in the U.S. markets and harvested with substantially lower fuel costs than available to U.S. fleets. A hybrid position was also developed which called for a countervailing duty against foreign produced shrimp. This would consist of ½ the differential between fuel costs. The collections would then be rebated back to the U.S. fisherman to offset his fuel costs. A formula would also have to be developed to cover administration costs of this program.

The countervailing duty may not be sufficient, however, in that the major concern to the Texas industry is the large amount of imports from Mexico. In 1979, the quantity of imported shrimp from Mexico was 71.9 millions pounds worth $294.6 million. This product harvested with 17 cents-20 cents per gallon fuel entered into the U.S. market completely free and in direct competition with U.S. produced shrimp harvested with 95 cents-$1.00 per gallon fuel. The low fuel costs in Mexico, however, is the national price and apparantly not a unique subsidy for the fishery.

A 5 percent tariff may well be the more appropriate route to take to avoid the subsidy/nonsubsidy question. Funds derived from this tariff could initially go into support of the Fisheries Loan Fund until expiration and then be used to support seafood promotion and consumer education programs.

In summary the shrimp fishery in the Gulf of Mexico, specifically that segment of the fleet operating off the Texas coast is going through a crisis period. In order to prevent serious setbacks, there must be a comprehensive program oriented toward an infusion of capital to relieve defaults among competent industry members, control of seafood imports to insure that the market does not become weakened by a flood of imported products produced with fuel costing 500 percent less that fuel available to U.S. producers. and adequate encouragement to become involved in non-traditional species.

The Fisheries Promotion Act, H.R. 7039, takes a bold step toward accomplishment of these requirements. It is hoped that Congress will see fit to pass this legislation rapidly with a minimal number of amendments beyond those addressed in this statement.

I do not feel that the U.S. fishing industry and certainly not the Texas shrimp industry is wanting to diverge from the free market concept, however there currently exist critical situations which are a result of actions beyond the control of industry participants. The industry must look to government to resolve these unsatisfactory conditions. Unfortunately, the crises heing experienced demand immediate attention, the time for more study has passed.

Thank you, Mr. Chairman and members of the Subcommittee, for this opportunity to submit this testimony.

PAN AMERICAN BANK,
Brownsville, Tex., May 19, 1980.

HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, D.C.

GENTLEMEN: This letter is written to encourage your support for the shrimp industry. It would not be an understatement to say that the shrimp industry at Brownsville-Port Isabel is experiencing a deep recession. A "shake-out" equal to those of the 50's and 60's is more than a probability.

There are numerous reasons for the current situation: the closing of Mexican fishing grounds to American Shrimpers; subsequent increased pressure on American grounds; a dramatic increase in the price of diesel fuel; and recent high retail prices weakening acceptance and causing wholesale price erosion.

H.R. 7309, the American Fisheries Promotion Act by Congressman Breaux of Louisiana, is a commendable effort to assist the industry. An import tax on foreign shrimp with proceeds to be applied in some fashion to diesel fuel cost or per pound of shrimp produced by U.S. shrimpers would be a direct method to avert a shrimp fisheries "disaster".

Lending additional monies—particularly to a specific group of borrowers such as Title XI program participants—would not be constructive assistance. The need is more broad based. Title XI loans, in many cases, contributed to the current problem because they increased the number of vessels in the fleet, under more favorable than normal conditions, heightening the problem of profitability in a "down" market.

In my personal opinion, when Mexico caused a sharp reduction in fishing areas a natural contraction of the shrimp fleet in Texas waters was a reality. The government, by continuing to support marginal operators, will only postpone a "day of reckoning."

Another area of concern needing your immediate attention is relief for non-boat owners employed in the industry. The current decline is causing extreme hardship for non-owner captains, crew members and workers in the processing industry. Washington needs to focus a portion of its attention to these individuals and their families who can least afford their current economic plight.

Thank you for your attention to this matter.

Sincerely,

R. M. DUFFEY, Jr.

STATEMENT OF CHARLES H. FRITTS, LEGISLATIVE COUNSEL, NEW BEDFORD SEAFOOD COUNCIL, INC.

The New Bedford Seafood Council, Inc. which represents the boatowners and fishermen in the port of New Bedford, Massachusetts, strongly supports H.R. 7039, the American Fisheries Promotion Act.

In terms of the dollar value of landings, New Bedford is the fourth largest commercial fishing port in the United States. This is more than double that of any other port on the Atlantic Coast. Over 180 boats fish out of New Bedford. We have a very important stake in the future of the American fishing industry.

H.R. 7039 proposes to put the American fishing industry in a position to help itself.

The phase-out of foreign fishing is essential to our future growth. It is extremely difficult to compete with the heavily subsidized foreign fleets. The proposed phase-out of foreign fishing interests would insure that American fishermen will expand their capacities and enter new markets.

Americans do not enter certain markets because of heavy foreign domination. The cost and risk to enter a new market and compete with the foreign fleets is too great. The scheduled phase-out will be a tremendous incentive to expand established markets and reach into new ones. We endorse the most rapid phase-out schedule as is feasible.

The observer program is absolutely essential today and will be more so if the phase-out goes into effect. The foreign fleets are exceeding their authorized catch due to the failure of our enforcement program. In addition to the depletion of U.S. resources, it plays havoc with our management program. Without effective enforcement on every foreign vessel, the phase-out schedule will be abused as the catch limitations are abused today.

A fair price should be charged to those foreign interests that fish in U.S. waters and take U.S. resources. The committee takes a very innovative approach in providing that the increased fees finance the programs established by H.R. 7039. This protects the American taxpayer and keeps the funds in the industry. We support the increase of the fees as proposed and request the comittee to determine what other nations charge in order to bring U.S. rates up to the world average.

Due to inflation, foreign competition, and rising fuel costs, many vessel owners are in severe financial positions. Because this legislation provides the means for American fishermen to work their way towards a sound financial status over the long term, short term relief is necessary. Low interest loans will provide the means to survive the current crisis. We would prefer that the Loan Fund be equally available to all vessel owners without priority given to Title XI Loans.

We endorse the use of the Capital Construction Fund for shoreside facilities. Although, the New Bedford Seafood Council, Inc. does not represent processors, improved facilities can only help our sector of the industry.

The American fishing industry can become a net exporter. Trade barriers to U.S. fish products should be removed. The use of foreign fish allocations to force these barriers down is certainly a very practical tool.

With regard to the amendments to the Saltonstall-Kennedy Program, we welcome the requirement that projects be 75 percent U.S. owned. The intent of the F.C.M.A. and of H.R. 7039 is to promote the American fishing industry. American assistance should be spent on Americans.

Mr. Chairman, the American consumers of seafood products have a choice. They can import the product or they can buy from American fishermen. The U.S. Fishery Conservation Zone, particularly the George Bank, which is our fishing ground, has many of the richest grounds in the world. These are American resources. There should be no question as to who should develop, manage, and harvest American ocean resources.

This legislation will insure that the F.C.M.A. is implemented to the fullest.

Statement by Ronald W. Green, President of the Associated Fisheries of Maine

To: Chairman, Fisheries, Wildlife & Conservation Sub-Committee, as President of the Associated Fisheries of Maine, a trade organization composed of members of this State's commercial fishing industry and related businesses, I would like to enter the following statement into the record as evidence of the Association's interest in and support of the Breaux Fisheries Development Bill, H.R. 7039. In addition to an expression of general support, we would like to make the following comments on specific sections of the bill.

SECTION 101: AMENDMENT TO THE SALTONSTALL-KENNEDY PROGRAM

Dedication of 75 percent of the SK funds to non-federal fishery development projects would be, we believe, an important and valuable change. Industry members, rather than Government, are in the best position to assess their own problems and to formulate appropriate solutions.

FUEL EFFICIENCY AND FISH INSPECTION QUALITY STANDARDS

The importance of these two subjects is obvious, and the Association is prepared to support projects to improve fuel efficiency and fish quality. We do not believe, however, as a matter of principle, that specific projects should be mandated by legislation. All projects presents should start out on an equal footing and be evaluated on their relative merits.

SECTION 102 REGIONAL FISHERY ATTACHES

In the past we have had all to few fisheries specialists assigned to United States diplomatic missions abroad, and the Association supports the concept that additional experts in this field are needed if we are to expand export markets for our seafood products. It is essential, however, that a system of prompt reporting be instituted as part of any expansion of this program. Delays in furnishing market information to the domestic industry make such information of little or no value.

SECTION 201 CAPITAL CONSTRUCTION FUND

The Maine commercial fishing industry is very supportive of the amendments proposed for the Capital Construction Fund covering the building of shoreside facilities and the purchase of used fishing vessels and processing facilities. A lack of capital for such purpose has long restricted the development of this State's commercial fishing industry. Expanded processing facilities are an especially urgent need in Maine, and the incentives provided by this fund could be most helpful in accomplishing this goal.

SECTION 211 LOAN GUARANTEE PROGRAM

This program would appear to be a logical complement to the Capital Construction Fund legislation. As such it has the support of our Association.

SECTION 212 FISHERIES LOAN FUND

A number of countries that are competing with our domestic fishermen are receiving fuel subsidies from their governments. Similar assistance is urgently needed for Maine fishermen if they are to be in a position to compete. The Fisheries

Loan Fund seems to be an appropriate vehicle for helping Maine fishermen meet the rising costs of fuel, thereby keeping them in business.

SECTION 301 PHASE-OUT OF FOREIGN FISHING

The Associated Fisheries of Maine is very much in favor of a phase-out of foreign fishing in the U.S. Fisheries Conservation Zone. Such a phase-out should accomplish a number of benefits for our domestic fisheries. Fish stocks would be permitted to build more rapidly than is the present case with foregin vessels continuing to harvest certain species in significant quantities. This would result in a more efficient fishery for our domestic fleet and reduce costly fuel consumption. And it should provide our fishermen with improved markets both domestically and for export by reducing the volume of products in both market areas presently supplied by foreign vessels.

SECTION 301 TRADE BARRIERS

The Association strongly supports the concept that trade barriers by other countries should be taken into consideration as a negative factor in deciding the allocation of surplus fish. Reduction of our denial of such allocations to countries with such trade barriers should be an effective means of limiting or eliminating such barriers.

SECTION 302 NEW FEES ON FOREIGN FISHERMEN

Because of very substantial differential in fuel costs to United States fishermen as compared with foreign fishermen, the Association favors the proposal to increase the fees charged foreign vessels operating in the fisheries conservation zone. It is the Associations members' view that such increase should be set at levels that would be more than sufficient to offset the costs of administration.

SECTION 311 OBSERVER PROGRAM

It is clear that the Observer Program is an essential part of the United States fisheries conservation effort and is the most effective way developed so far to ensure that foreign fishing vessels do not exceed their quotas. Therefore, because of its importance, the Associated Fisheries of Maine strongly supports a significant expansion of the Observer Program, the costs of which would be assessed the foreign fishermen. Ideally there should be an observer on every foreign fishing vessel. If this is not feasible, at least observers should be on board every foreign processing vessel and on as many of the larger harvesting vessels as possible.

The opportunity to present the views of the members of the Associated Fisheries of Maine is appreciated, and we hope that our comments will be considered during future deliberations on this important legislation.

STATEMENT OF SARA S. HEMPHILL, EXECUTIVE DIRECTOR ON BEHALF OF ALASKA FISHERIES DEVELOPMENT FOUNDATION, INC.

Mr. Chairman and members of the House Subcommittee on Fisheries, Wildlife Conservation and the Environment, Alaska Fisheries Development Foundation, Inc. (AFDF) is a private, non-profit industry organization whose membership represents the full spectrum of Alaskan commercial fishermen and processors. The Foundation appreciates the opportunity to address this esteemed Subcommittee regarding the American Fisheries Promotion Act (H.R. 7039). The issues dealt with in this proposed legislation are of vital concern to the domestic commercial fishing industry in general and to the Alaska fishing industry in particular.

The hurdles and impediments inhibiting the smooth and expeditious expansion and development of the domestic commercial fishing industry in Alaska are as vast, varied, and variable as the resource itself. The opportunity to harvest this resource pursuant to the Fishery Conservation and Management Act has proved to be only part of the solution, as demonstrated by the fact that the domestic harvest increased by only 4 percent in the two years following passage of the legislation. Of the two million metric tons of ground-fish harvested annually off of the coast of Alaska, less than 1 percent is taken by domestic fishermen. The processing sector has not fared even this well. It is imperative that a development bill be in place this year which will complement the Fishery Conservation and Management Act, insuring that the intent of congress is realized and that the needs of the industry are addressed.

The Alaska Fisheries Development Foundation supports H.S. 7039, pursuant to the following comments and observations:

1. H.R. 7039 precludes entities which have a greater than 25 percent foregin owership from receiving Saltonstall-Kennedy (S/K) funding awards.

AFDF recommendation

Where foreign ownership in entities is greater than 25 percent, the requisite cost share to be provided by the applicant could be subject to increase. The increase would reflect several considerations, including: the degree of foreign ownership; the urgency of the project; the extent and nature of alternative sites, facilities, and participants; and the breadth of benefits expected to result from the project.

Rationale for AFDF recommendation

(1) Limited funds are available for research and development and time is of the essence. It would be shortsighted to preclude the industry from using a facility or vessel simply because of the degree of foreign ownership.

(2) The provision as it is initially stated will be difficult to administer given the existing convoluted debt and "ownership" structure of many entities.

(3) The proposed addition gives an edge and preference to the majority-owned domestic entity while permitting flexibility so as to best address industry's needs.

2. The competition for S/K funding does not contemplate industry review of projects and programs. Such an over-sight threatens to undermine the intent of Congress, and must be addressed in this legislation.

AFDF recommended addition

"Support for the project from the domestic fishing industry pursuant to peer group review at both the regional and national levels" should be among the criteria used by the Secretary in evaluating applications for S/K funds.[1]

Rationale for proposed addition

(1) It is critical that the industry have an opportunity to review any and all projects before they are approved for funding in order to insure that the projects undertaken are in fact responsive to industry's needs. Such an approach will not only insure that the Congressional intent of the Saltonstall-Kennedy legislation is realized, but will also be the best check on the spending.

(2) Other agenices have successfully incorporated peer group review into their funding processes without conflict of interest problems, e.g., the Marine Mammal Commission and the Department of Agriculture.

3. The phase out of foreign harvesting capacity contemplated in H.R. 7039 has created much discussion in the Pacific Northwest.

AFDF recommendation

A date certain for phase out of foreign fishing is in general favorably received by all segments of the Alaskan industry, so long as the processing capacity can keep pace with harvesting capacity.

Rationale for AFDF recommendation

The time frame for phase out is not as critical an element of the provision as is the fact that a date certain would be established. Such action would significantly impact the availability of private financing for the industry.

The role of joint ventures in expediting the entry of the domestic industry into groundfish fisheries as foreign entities are being phased out is being discussed among members of the Alaska fishing industry. As you are keenly aware, this traditionally has been a very controversial subject, on which shore-based processors and fishermen have opposed each other. In the present climate of the industry, a significantly more conciliatory attitude is apparent. Some processors are beginning to indicate their acceptance of joint ventures as the most expeditious means of developing domestic capacity for underutilized species.

4. H.R. 7039 contemplates that in addition to the permit fee currently charged under 16 U.S.C. 1824(b)(10), the owner of any permitted foreign vessel will pay an additional fee equal to 10 percent of the ex-vessel price of the catch harvested under the permit.

AFDF recommended modification

The permit fee charged the owner or operator of a foreign fishing vessel for which a permit is issued shall cover the vessel's appropriate share of the cost of administering and monitoring the foreign fishery, such that total revenue from permit fees is equivalent to the total cost of the permit and monitoring program.

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[1] The quoted material could be inserted under Subsection (c)(3)(B) proposed in H.R. 7039 as an amendment to the S/K Act (see line 23, p. 5 of the April 15, 1980 draft of H.R. 7039).

Rationale for proposed modification

Some industry groups, particularly fishermen who operate in distant seas fisheries, are concerned about the ramifications of attaching a specifically valued surcharge to foreign permit fees.

Establishing permit fee revenues to equal program administration costs is a reasonable and justifiable objective for this legislation. It does not obviously invite foreign retaliation in the form of increased permit fees, as a specifically valued surcharge might.

5. H.R. 7039 does not address the need for thorough and responsible planning to insure an effective fisheries development plan.

AFDF recommended addition

Under Subsection (c)(3) presented in H.R. 7039 as an addition to the S/K Act, insert, "is satisfied that the project conforms with and is responsive to the approved regional fisheries development plan."

Rationale for proposed addition

In order to insure that fisheries development monies are responsive to the entire region as well as the industry, a recognized regional fisheries development plan should be in place and operative in the S/K proposal evaluation process.

A regional plan would serve as a guide to the Secretary in his determination of which projects merited funding. Furthermore, the suggested addition to H.R. 7039 would work to decentralize fisheries development operations, placing the emphasis in the regions where it belongs. This is essential to continued regional support for developments facilitated initially by S/K funds.

6. S. 1656 does much to clarify the purposes and directives of the long-abused S/K legislation. For example, S. 1656 clearly states that S/K monies are available to entities involved in the commercial fisheries. The legislation, by omission, precludes direct S/K awards to municipal, state and federal governments, though their participation in the program was solicited by the NMFS Federal Register release of 11-15-80, "Fisheries Development and Utilization Research and Demonstration Grants and Cooperative Agreements."

AFDF recommendation

It is important that the definition of "person" as found in H.R. 7039 does not include public entities such as local, state, and federal governments.

Rationale for AFDF recommendation

While this seems a small point, it is in fact an important one. The clear intent of S/K legislation is that the monies be used to address industry needs as identified by the industry itself. Projects designed and executed by public entities have not in the past guaranteed that industry needs were met.

7. H.R. 7039 addresses the concern that foreign trade barriers should be a consideration in the State Department's allocation of surplus fish to foreign vessels.

AFDF recommendation

Consideration of trade barriers in allocation decisions should be done on a species by species basis.

Rationale for AFDF recommendation

The Fishery Conservation and Management Act provides a mechanism for considering foreign trade barriers in the allocation of surplus fish to foreign vessels operating in our fishery conservation zone. However, such a process has not been whole-heartedly adopted by the administration.

Adoption of the AFDF recommendation would insure that the development of one fishery is not enhanced at the expense of another fishery. Furthermore, the recommended approach would help restrict the complexity of allocation decisions, would promote the existence of a harmonious, cooperative domestic fishing industry, and would act to increase world market prices for fish products, diminishing one of the impediments to domestic fishery development.

The Alaska Fisheries Development Foundation heartily and unconditionally supports those provisions of H.R. 7039 which address the extension of the capital construction fund and the Title XI loan guarantee program to shore-based fishery facilities, the 100 percent U.S. observer program on foreign vessels, and the appointment of six fisheries attaches to key diplomatic missions.

Thank you for giving us the opportunity to present our concerns. If you have any questions, please don't hesitate to contact us.

STATEMENT BY JAMES L. WARREN, EXECUTIVE DIRECTOR, MAINE SARDINE COUNCIL

The Maine Sardine Council appreciates that opportunity to present its views on this legislation and its effects on our Fishery. The Maine Sardine Council is an agency of the State of Maine and functions very much like a Trade Association for the canners and processors of herring on the Maine Coast. The 16 shoreside plants employ directly 2300 people. These plants are located along the Coast of Maine in towns which are highly dependent upon the resources of the sea. While Sardine and Herring Processing account for the substantial percentage of the output of this Industry, two of the larger companies own, or have under contract, four large—over 100 foot—off shore fishing vessels capable of fishing for herring, squid, groundfish, etc. Fishing and fish processing are the backbone of the economy of the Coast of Maine.

I would like to outline for you our views on the important parts of this legislation.

Section 101 amendment of the Saltonstall-Kennedy program

We strongly favor the dedication of 75% of the SK monies to non-Federal fishery development projects. We feel that projects which are proposed by Industry and other non-governmental entities, are the projects which are most likely to address the problems of the fishing industry and would be most beneficial in helping to solve the serious problems which all segments of the industry are now facing. We are concerned, however, with the provision for non-Federal projects to be restricted to enterprises which are at least 75% U.S. owned. Some of the most worthwhile projects could be proposed for foreign owned enterprises and would be ruled out under this provision. We would much rather see U.S. ownership established as another criteria which would receive addtional weight or points over a similar project proposed by an enterprise which is not U.S. owned.

Fuel efficiency and fish inspection quality standards

While we wholeheartedly endorse any efforts at improving fuel efficiency and fish quality, we do not feel it appropriate for legislation to mandate specific projects such as these. Any projects submitted for funding, we feel, should be chosen on their own merits, and any worthwhile and sound projects addressing Fuel Efficiency and Fishing Inspection Quality Standards undoubtedly would be funded under the normal process of review.

Section 102 regional fisheries attaches

We feel that Regional Fisheries Attaches assigned to key diplomatic missions, could be of benefit to the U.S. Fishing Industry. To be of benefit, these attaches should be well-qualified in foreign fishery matters and be able to communicate promptly back to the U.S. Industry, any information or request for service which they may receive.

Section 201 capital construction fund

We strongly favor the amendments proposed for the Capital Construction Fund which would include shoreside fishery facilities and the purchase of used fishing vessels or processing facilities. If the U.S. Industry is ever to fully develop the underutilized species off its coast, it must surely have some additional incentive such as the Capital Construction Fund provisions to invest in buildings and equipment to process these species.

Section 211 title XI loan guarantee program

In order to complement the amendments to the Capital Construction Fund, we would also support the amendments to the Loan Guarantee Program.

Section 212 fisheries loan fund

We would favor the use of the Fisheries Loan Fund only to assist in potential defaults due to specific problems on Title XI Guaranteed Loans. This would have the dual purpose of assisting fishermen with Title XI Loans with specific problems, and also protect the Loan Fund from unnecessary losses due to owners defaulting on mortgage payments.

Section 301 phaseout of foreign fishing

We strongly support the principle of Phase-out of Foreign Fishing. The intent of the FCMA was to do just this by gradually establishing conditions by which the U.S. fishermen could harvest and market all of the fish to be caught in the FCZ. However, with the foreign vessels still catching substantial quantities of some species, this does not provide access to foreign markets for U.S. harvesters. There is a real need today to leave substantial surpluses in the water. This would provide U.S. fishermen with a more fuel efficient fishery and allow U.S. fishery products to better compete in the foreign and U.S. markets against foreign vessels which have substantial cheaper fuel costs.

This would also tend to improve the quantity of the fish as vessels could catch fish quicker and return them to shore for processing. We feel that perhaps reducing foreign fishing to zero, might throw away one of the trading advantages that we could use. It might be desirable to set a target reduction such as dropping to 25% and use this remaining level to allocate in return for marketing benefits in the country of allocation. In regard to the Secretary's review of the Phase-out in any given year, we feel that one year is too brief a period to determine a "substantial surplus of fish stocks". We feel the review should cover a period of several years and thus would be more indicative of the conditions in the Fishery.

Section 301 trade barriers

We strongly support any consideration of Trade Barriers in allocation of surplus fish. We have found particularly in the case of Japan, where they have reduced their tariffs on certain fishery items, but that their import quota system and import licensing system, still act as an effective non-tariff measure. Others such as Spain and the EEC, seem to find effective ways to discourage fishery products from being imported. Until such Trade Barriers are removed, the chances of the U.S. developing world markets on any substantial scale is extremely limited.

Section 302 new fees on foreign fishermen

We strongly support any increase in the fee system for foreign fishermen. We are not sure whether the 10% formula is the correct approach, but urge that some formula be adopted which would cover the costs of administration and also go somewhat beyond this. Increased fees also would help to offset the substantial differential in fuel costs between the U.S. fishermen and foreign fishermen.

Section 311 observer program

We strongly support a substantial increase in the Observer Program and that these costs should be entirely borne by foreign fishermen. This is particularly important at this time, with the curtailment of enforcement activities by the Coast Guard. The only way we can really know what is taking place in the FCZ by foreign fishermen is to put observers on most of their vessels. We would suggest that if 100% coverage is not realistic, that consideration be given to placing observers on all foreign processing vessels.

Again, we appreciate this opportunity to present our views to your Committee. We hope our comments will be helpful in consideration of this important legislation.

OREGON CONSUMER LEAGUE,
Portland, Oreg., February 29, 1980.

Mr. PRESTON SMITH,
National Marine Fisheries Service,
Washington, D.C.

DEAR MR. SMITH: President Kennedy's historic "Bill of Rights of the Consumer" included the "right to be heard." President Carter incorporated this right into his Executive Order 12160, signed September 26, 1979, providing for the right of the consumer to be heard in government agency program planning.

Being from a seacoast state, the November 16 announcement in the Federal Register of availability of funding from National Marine Fisheries Service suggested possible meaningful participation in an agency program. It was stated that "any person or group may submit a proposal."

But interest dampened with the January 18 notice in the Federal Register of cost-sharing requirements. . . . It is impossible for consumer groups, such as ours, to meet a 20-30 percent cost-sharing requirement. We are not tax deductible, with little opportunity for foundation grants or substantial contributions. We survive on conservative membership dues and volunteer help, stretching our budget just to cover basic bare-bone survival costs.

We see OMB's policies as a roadblock to consumer participation in agency projects, and favor a blanket exemption for non-profit consumer groups on the cost-sharing requirement.

Sincerely,

JANET J. RATHE, *Executive Secretary.*

NATIONAL CONSUMERS LEAGUE,
Washington, D.C., February 27, 1980.

Mr. PRESTON SMITH,
National Marine Fisheries Service,
Department of Commerce, Washington, D.C.

DEAR MR. SMITH: It has recently come to our attention that the National Fisheries Service is being required by the Office of Management and Budget to impose a threshold cost-sharing requirement on all applicants for funding. The National Consumers League finds such cost-sharing mechanisms severely bar consumer participation in federal grant programs, and we urge you to oppose this measure.

A policy which assumes consumer and non-profit organizations have ready cash reserves comparable to those of profit-making enterprises is a disservice to consumers. Non-profit organizations have very small budgets, uneven cash flows, and must frequently operate under deficits. Minimum cost-sharing requirements operate to exclude those groups which could make valuable contributions with access to the $10 million NMFS program.

We urge you not to retain discretion to waive the cost-sharing barrier in extreme situations, but to drop it altogether, and to replace it with a comprehensive exemption for bona fide consumer groups.

Sincerely,

SANDRA L. WILLETT,
Executive Vice President.

MARYLAND CITIZENS CONSUMER COUNCIL, INC.,
Bethesda, Md., February 28, 1980.

Mr. PRESTON SMITH,
National Marine Fisheries Service,
Washington, D.C.

DEAR MR. SMITH: The Maryland Citizens Consumer Council, a volunteer consumer organization, is writing to inform you of our serious dissatisfaction with the minimum cost-sharing requirement imposed by the Office of Management and Budget on the National Marine Fisheries Service's solicitation of proposals for nutrition education on fish products. We strongly support increased participation of consumer and non-profit public interest organizations in the $10 million outlined in the November 15, 1979, Federal Register, but feel that such a cost-sharing requirement is unreasonable and unworkable for volunteer consumer groups, such as MCCC. With an average yearly budget of less than $1000, which mainly pays for our newsletter and meeting expenses, there is no way that our organization would submit a proposal.

We feel that there should be some type of blanket exemption for consumer and non-profit groups to enable them to participate as equally and actively as businesses which have the money to meet such a requirement. Without such a blanket exemption, we feel that OMB is acting contrary of President Carter's Executive Order 12160.

We appreciate your consideration of our views.

ODONNA MATHEWS, *President.*

LOUISIANA CONSUMERS' LEAGUE,
New Orleans, La., February 27, 1980.

Mr. PRESTON SMITH,
National Marine Fisheries Service,
Washington, D.C.

DEAR MR. SMITH: The Louisiana Consumers' League is planning to apply for an NMFS Grant.

We are aware of the November 15 solicitation, and the January 18 requirement for comments. We are not able to meet the 20 to 30% cost-sharing requirements, and this would discourage us from devoting resources to the preparation of a proposal.

We would request and recommend that the waiver provision be dropped, and replaced with a blank exemption for consumer groups.

Thank you for your assistance and cooperation.

Sincerely,

LARRY SAMUEL, *President.*

Michigan Citizens Lobby,
February 29, 1980.

Re Comment on Notice Concerning Cost-Sharing in Federal Register for January 18, 1980.

Office of Utilization and Development,
National Marine Fisheries Service,
Washington, D.C.

(Attention: Preston Smith.)

Dear Mr. Smith: I wish to object strongly to the provision in Section I (l) of the above-captioned Notice establishing a minimum non-federal share of 20 percent to 30 percent for fisheries development and utilization projects.

While such a requirement for cost sharing may present little hardship to some industry organizations or firms, or government agencies, it will operate as an absolute barrier or deterrent to the vast majority of nonprofit public interest organizations. Even with the provision for waiver of cost sharing "in the most unusual circumstances," this requirement will discourage many such organizations from investing the effort to develop proposals, since they cannot know in advance whether they will qualify for the waiver.

The national marine Fisheries Service seems insensitive to the Financial realities which exist in the public-interest community. The Michigan Citizens Lobby, this state's largest consumer organization with a membership of 86,000 families, operated on a total budget last year of $247,000, stretched that budget to cover as many priorities as possible, and ended the year over $12,000 in debt, mostly in the form of unpaid salaries due to its full-time staff. The nation's largest consumer organization, the Consumer Federation of America (on whose board of directors I serve) had a total 1979 budget of $234,000 from all sources. These are among the largest such organizations. Many doing excellent work are far smaller.

With such limited resources as these, if such organizations are to take your announced grant contract program as an invitation to them to participate, it is essential that the program waive cost sharing entirely in the cases of nonprofit organizations with a grass-roots consumer constituency, or federations or coalitions made up of such organizations.

In the absence of such a blanket waiver, we can only assume that the $10 million program is actually intended only for industry participation. We had hoped, with the President's issuance last September of Executive Order 12160, requiring all federal agencies to maximize consumer participation, that such covert exclusions would end. We therefore urge you to reconsider the cost-sharing requirements in this grant program.

Sincerely,

Joseph S. Tuchinsky,
Codirector.

Council for Public Interest Law,
Washington, D.C., March 3, 1980.

Mr. Preston Smith,
Senior Staff Assistant, Office of Utilization and Development, National Marine Fisheries Service, Washington, D.C.

Dear Mr. Smith: The Council For Public Interest Law, in response to the NMFS solicitation of November 15, 1979, and the January 18, 1980 Request for Comments on the minimum cost-sharing requirement imposed by OMB, urges NMFS to assert its authority to waive a cost-sharing requirement. We believe that OMB's cost-sharing plan will only defeat the purpose of public participation funding and the consumer participation provisions of President Carter's Executive Order 12160. By creating this additional financial barrier, the matching requirement will cause consumer groups whose views the President specifically identified as necessary in agency decisionmaking to go unheard.

The importance of facilitating the participation of consumer groups and individuals in agency proceedings cannot be denied. Federal agencies have begun to respond to the need for public participation programs by establishing their own programs. The FCC, proposing such a program, recently stated that "it would serve the public interest to increase participation in our rulemaking proceedings. The presentation of diverse viewpoints will contribute substantially to a full and fair resolution of the important issues which confront us."

Effective participation in agency proceedings often requires extensive legal, economic and technical analyses. The analyses require large monetary commitments beyond what individual consumer groups can afford. For example, private attorneys that often appear in licensing proceedings have estimated the costs of such participation by public interest groups to be between $75,000-$100,000 per licensing action.

While the establishiment of public participation programs has helped to alleviate this burden, creation of a new financial requirement in the form of a matching fund will only replace the financial obstacle. For example, in an average nuclear licensing proceeding, the consumer participant would be required to spend from $15,000 to $30,000 under a 20-30 percent matching scheme. Fifteen thousand dollars for the ordinary consumer is an extraordinarily prohibitive barrier. Even $1000 would preclude many participants. Moreover, matching funding may tend to discourage participation because of the difficulty potential participants would face in foreseeing the amount of money necessary to adequately prepare for often prolonged and complex proceedings.

Rather than an arbitrary matching requirement which would indiscriminately impose hardship on potential participants, the Institute favors use of a needs test in the initial determination of who is to receive funding. Under this test only those who actually need to be reimbursed for specific amounts will be funded. Likewise, meaningful participation can be assured by providing that no money be awarded unless the participant can show his or her participation will substantially contribute to the agency's determination.

A minimum cost-sharing requirement does not enhance the President's program to encourage consumer participation in agency proceedings; rather, it jeopardizes it effectiveness. Reimbursement decisions should be based upon a real assessment of an applicant's need rather than on arbitrary financial requirements that will exclude many important viewpoints and analyses. We therefore urge the NMFS to assert its authority to waive all cost-sharing plans.

Sincerely,

CLAUDIA SILVERMAN.
MARTHA RUDOLPH.

CLEVELAND CONSUMER ACTION FOUNDATION, INC.,
Cleveland, Ohio, February 22, 1980.

Mr. Myron Zeitz,
Community Nutrition Institute,
Washington, D.C.

DEAR MR. ZEITZ: I am writing in regard to the NMFS grant. I am aware of the November 15 solicitation and the January 18 request for comments. While our organization was not intending to apply for a grant, we would not have been able to submit a proposal because we would not be able to meet the 20 to 30 percent cost sharing requirement. That requirement would prevent us from devoting any of our resources to such a project. I, therefore, recommend to drop the waiver provision and replace it with a blank exemption for consumer groups.

Sincerely,

JOYCE COHEN,
Office Coordinator.

CENTER FOR SCIENCE IN THE PUBLIC INTEREST,
Washington, D.C., March 3, 1980.

Mr. PRESTON SMITH,
National Marine Fisheries Service,
Washington, D.C.

DEAR MR. SMITH: The Center for Science in the Public Interest is a non-profit consumer group dedicated to educating the public about food and nutrition. We have 15,000 members, and are supported primarily by the sale of our publications and our membership. At present we have no plans to seek funds from the National Marine Fisheries Service (NMFS).

We are writing you because we are disturbed that NMFS has placed (in its January 18, 1980 Federal Register announcement) a 20-30 percent minimum cost sharing requirement on its November 15, 1979 solicitation for proposals. We believe that cost sharing is a definite burden to consumer groups who wish to participate in NMFS programs. We strongly urge NMFS to drop this requirement for all consumer groups.

Sincerely,

GARY JACOBS, Esquire,
Staff Attorney.

Concerned Consumers League, Inc.,
Milwaukee, Wis., March 7, 1980.

Mr. Preston Smith,
National Marine Fisheries Service,
Washington, D.C.

Dear Mr. Smith: The Concerned Consumers League is a self-help consumer education and protection agency which has served the metropolitan Milwaukee community for the past decade and is grassroots in nature. Being a local agency the League's experiences as an organization are typical of other organizations throughout the United States. We have limited fiscal resources which are unobligated that could be used to meet the current cost sharing requirement of the NMFS. If, as a prime applicant, the League were to apply to the NMFS for project monies the cost sharing requirement would be an absolute barrier to our participation and the participation of consumer organizations who are neighborhood based.

Many of the potential applicants for NMFS monies, who have the requisite program experience to fulfill contractual requirements, would be excluded from NMFS programming. I know the NMFS is as concerned about this issue as we are. Deletion of the cost sharing requirement should seriously be considered if the NMFS truly wishes to seek consumer involvement in the future NMFS programs.

Sincerely,

A. L. Luzi,
Executive Director.

Arkansas Consumer Research,
Little Rock, Ark., February 25, 1980.

Mr. Preston Smith,
National Marine Fisheries Service,
Washington, D.C.

Dear Mr. Smith: ACR is interested in the MNFF program and is aware of your November 15th solicitation and January 18th request for comments. Our organization would not be able to meet the 20 to 30 percent matching requirements. This would discourage us from preparing a proposal.

We recommend dropping the waiver provision and replacing it with a blanket exemption for consumer groups.

Sincerely,

Gary Tucker,
Executive Director.

The White House,
Washington, March 13, 1980.

Hon. Philip M. Klutznick,
Secretary of Commerce,
Washington, D.C.

Dear Secretary Klutznick: I am writing to express my concern about the proposed cost sharing provisions of the Fisheries Financial Assistance Program of the National Marine Fisheries Service (NMFS), which were published in the Federal Register of January 18, 1980 (45 Fed. Reg. 3727 (1980).)

My concern about NMFS's proposed cost-sharing guidelines centers on the requirement that to be considered eligible for funding, an application must propose that at least 20 per cent of the total cost of the project will be provided from non-Federal sources. Although cost-sharing provisions of this nature are clearly appropriate in instances in which well-endowed applicants stand to reap significant economic benefits from the results of the projects they propose, they may act to preclude the participation of public interest, consumer-based organizations, otherwise fully capable of contributing effectively to the fisheries development program.

I recognize that part, or all, of the non-Federal share of projects may take the form of in-kind contributions. However, many public interest organizations operate on "shoestring" budgets, and, though strong on the kind of technical expertise necessary to organize and run a complex fisheries development project, they may be weak in actual resources. Such organizations may not be able to provide resources at the levels for which the NMFS guidelines call.

My staff has contacted your staff to discuss this matter; however, I wished to apprise you of my interest. If I may be of additional assistance, please let me know.

Sincerely,

Esther Peterson,
Special Assistant to the President for Consumer Affairs.

Consumer Affairs Committee,
Americans for Democratic Action,
Washington, D.C., February 28, 1980.

Mr. **Preston Smith,**
Office of Utilization and Development (F/UD) NMFS,
Washington, D.C. 20235

Dear Mr. Smith: Pursuant to the January 18, 1980 Federal Register notice requesting comments on your cost sharing requirements, we believe your guidelines establish an insurmountable barrier to non-profit consumer groups that might otherwise be interested in participating in your program.

This organization would not be able to allocate, even in indirect costs, 20 to 30 percent of a project, no matter how important we believed the consumer education component to be. We believe official barriers to full consumer participation in agency programs should be dropped, and that this barrier is particularly inappropriate because the principal behind cost sharing should take into account the ability of the type of organization to contribute in the direct profits it will reap.

Since consumer organizations do not profit in the same way that industry or universities might, a blanket waiver for consumer organizations is appropriate.

Sincerely,

Ann Brown,
Chairperson.

Consumer Federation of America,
Washington, D.C., February 28, 1980.

Mr. **Preston Smith,**
National Marine Fisheries Service,
Washington, D.C.

Dear Mr. Smith: The Consumer Federation of America strongly urges the National Marine Fisheries to exempt non-profit consumer groups from the cost-sharing requirement contained in the RFP appearing in the November 15, 1979 and January 18, 1980 issues of the Federal Register.

With the Community Nutrition Institute, CFA has submitted a proposal in response to this RFP in the expectation that such a blanket exemption would replace the existing waiver provision. Without this exemption, CFA could not afford to participate in this important project.

Furthermore, as the Director of the Resources Center that services state and local consumer groups around the country, I can say unequivocally that none of these organizations would have the resources to meet the minimum cost-sharing requirement proposed by your guidelines. For all these groups, this requirement represents an absolute barrier to participation.

CFA (and CNI) took a major risk in devoting resources to making application without knowing for certain that the exemption would be granted. We did so because we were led to believe by NMFS staff members that the agency would reconsider the cost-sharing requirement.

We greatly appreciate your consideration of this request.

Sincerely,

Stephen Brobeck,
Associate Director.

Community Nutrition Institute,
Washington, D.C., March 3, 1980.

Mr. Preston Smith,
National Marine Fisheries Service,
Washington, D.C.

Dear Mr. Smith: Community Nutrition Institute submits the enclosed comments on the proposed cost-sharing guidelines pursuant to 45 Fed. Reg. 3627.

Sincerely,

Ellen Haas,
Director, Consumer Division.
Myron Zeitz,
Staff Attorney, Consumer Division.

Comments of Community Nutrition Institute on The Cost-Sharing Requirements of the Fishery Development Funds at National Marine Fisheries Service

Community Nutrition Institute (CNI) submits these comments to National Oceanic and Atmospheric Administration of the Department of Commerce pursuant to 45 Fed. Reg. 3627 (January 18, 1980) and 44 Fed. Reg. 65806 (November 15, 1979).

The Community Nutrition Institute is a non-profit public interest organization that supports the development of a national food and nutrition policy serving consumer needs at the community level. It publishes a weekly newsletter (CNI Weekly Report) on food and nutrition issues. It provides training and technical assistance services as well as sponsoring workshops and conferences on public policy issues in food and nutrition.

CNI and its Consumer Division focus their efforts on the development and support of policies which promote consumer access to safe, nutritious, and affordable foods, and are especially concerned with low-income consumers who can least afford to misallocate their limited funds in providing a wholesome balanced diet to themselves and their families. CNI's Consumer Division maintains particularly strong links with NMFS and has a strong commitment to an increased consumer role at National Marine Fisheries Service.

I. INTRODUCTION

On November 15, 1979 National Marine Fisheries Service (NMFS) published a solicitation under the Saltonstall-Kennedy Act (S–K) to provide funding to selected persons or groups whose proposed project involved activities that would foster the development of and strengthen the fishing industry of the United States and increase the supply of wholesome, nutritious fish and fish products available to consumers.

Among the numerous requirements set out in that solicitation was the requirement that part of the total costs of each project be borne by the applicant through cash or in-kind contributions. This "cost-sharing" requirement is the subject of these comments.

II. STATUTORY AUTHORITY TO IMPOSE COST-SHARING

The November 15, 1979 solicitation is made possible through the Saltonstall Kennedy Act, 15 USC713c–3, as amended. The S–K Act fund was to be used each year by the Secretary of Commerce to promote trade in domestically produced fishery products, to develop and increase markets for these products and to perform basic research pertaining to U.S. fisheries.

In November 1978, a Fisheries Development Task Force was established within the Department of Commerce to determine the appropriate role of the Federal Government in providing assistance to the domestic fishing industry to promote the development of U.S. fisheries. The Task Force concluded that there was a legitimate basis for a targeted program of Federal cost-sharing assistance to the industries in the fisheries sector primarily with respect to new and non-traditional fisheries. As a result, a new Federal policy was formulated and announced in May 1979. The policy statement specified that the Administration would propose new legislation to provide funds for fisheries development activities and to specify criteria and guidelines for the use of those funds for fiscal years 1981–84. Such legislation has been introduced but not yet enacted.

Unlike the proposed legislation, the Saltonstall-Kennedy Act does not authorize the Secretary to require cost-sharing of applicants seeking financial assistance. While CNI does not argue that the silence of the present legislation is dispositive of the issue of whether the Secrtary may *now* require cost-sharing, we do believe that if that authority exists without statutory expression, it should be applied in a manner consistent with the administration's global position on cost-sharing for fishery development. To adopt some of the administration's criteria for awarding fishery development grants and to reject others only serves to weaken Commerce Department's claim of existing authority to require cost-sharing.

Section 104 of the Administration's bill provides that the extent of cost-sharing shall take into account the differences in types of organizations *and* the nature of the program or project. CNI believes that the January 18, 1980 guidelines for cost-sharing only takes into account the nature of the program and no provision is made for particular *types* of organizations.

Section 104 also requires that cost-sharing requirements be specified by regulation, presumably to guarantee public comment on a proposed scheme.

No opportunity was given to CNI or other members of the public to comment on a *proposed* guideline or rule. The process was closed to public scrutiny and the only participants were NMFS and Office of Management and Budget. Even the Office of the Special Assistant to the President for Consumer Affairs assumed a very small role.

III. THE POLICY IMPLICATIONS

CNI believes a blanket exemption for non-profit consumer organizations is essential. If the authority for cost-sharing arises from the Administration's bill, then that bill provides authority for blanket exemptions. Such an exemption would be consistent with Executive Order 12160 which establishes the apparatus for encouraging full consumer participation in agency programs. The intent of the Order was as much to suppress artificial barriers to participation by consumers and the organizations that represent them, as to encourage affirmative agency action to promote their participation.

That unavailable funds are a serious barrier to consumer participation in agency rulemakings is well-documented and is in fact, the basic premise of the National Oceanic and Atmospheric Administration's (NOAA's) Part 904 rule on Financial Compensation of Participants in Administrative Proceedings (reimbursed public participation). Non-profit consumer organizations face the same circumstances where federal programs impose cost-sharing requirements.

It is for this reason that the "type of organization" is an appropriate factor to consider in developing the cost-sharing standards.

Neither CNI, nor any of the state and local consumer organizations with which CNI has had discussions on cost-sharing, would be able to participate in the S–K Act program if the requirement was imposed. A similar consensus arises from discussions with national organizations that might have considered applying. All view this as an absolute barrier to the participation of each of the consumer organizations with which they work.

The provision in the administration's bill requiring the publication of a regulation detailing the cost-sharing requirements is a very important provision, not only to ensure that standards are proposed for public comment before finalization. It is important that the criteria be set by regulation to provide certainty to the process.

To permit the guidelines to remain as they are and merely allow an NMFS waiver of the cost-sharing requirement "only in the most unusual circumstances" will place non-profit consumer organizations at a serious disadvantage in the process of seeking S–K funds. No non-profit consumer applicant organization that does not know if NMFS will determine that its circumstances are "most unusual" will be able to allocate the very time-consuming resources necessary to produce a first-rate proposal. Final guidelines should be clear enough to permit every organization to ascertain, in advance of proposal writing, whether it meets the prerequisites for agency consideration of its proposals.

IV. FEDERAL REGISTER RATIONALS FOR COST-SHARING

At 44 Fed. Reg. 65806, the solicitation cites two standards that were to be applied when the final cost-sharing guidelines were later set:

(1) the relative distribution of the direct benefits from the project among the public at large vis-a-vis defined segments of the fishing industry; and

(2) the relative risk of the project in terms of its potential ability to generate private profits.

The final cost-sharing guidelines were set in three ranges: (1) 20–30 percent, (2) 30–70 percent, and (3) 70 percent or more. Without commenting on the appropriateness of the upper limits of these guidelines, CNI believes that at the lower end (20–30 percent) the final guidelines deny recognition of circumstances where all of the direct benefits from the project (e.g. consumer education) are derived by the public-at-large and where the project is not established in order to generate private profits to the applicant. CNI believes the guidelines fail to fully incorporate the formal standards on which they purportedly rely. The standards themselves suggest the need for a guideline permitting no cost-sharing under certain identifiable circumstances.

COMMUNITY NUTRITION INSTITUTE,
Washington, D.C., December 5, 1979.

Re: Solicitation of Proposals at 44 F.R. 65806

MARTHA O. BLAXALL,
Director, Office of Utilization and Development, NMFS,
Washington, D.C.

DEAR MS. BLAXALL: I would like to bring to your attention a matter which will significantly impair the response of non-profit consumer organizations to your November 15 Federal Register notice entitled: Fisheries Development and Utilization Research and Demonstration Grants and Cooperative Agreements. Sections III and VI of that notice provide that proposals which do not satisfy the minimum requirements on cost sharing will not receive consideration at formal review, and hence will be disqualified.

Non-profit consumer organizations are unlikely to respond to the solicitation if the cost sharing requirement is applied to them. For such organizations every activity must receive funding. Usually, all general revenues are precommitted to specific purposes.

I urge you to consider this problem when the final cost sharing requirements are developed. Moreover, I hope that this matter will receive your immediate attention inasmuch as proposal development itself is a very costly process, and as such, non-profit organizations are presently deterred from commencing the process until there is certainty that the cost sharing requirement will not preclude their participation. We are very aware of the January 15 deadline and feel that its proximity calls for immediate attention to this matter.

Sincerely,

MYRON G. ZEITZ,
Staff Attorney,
Consumer Division.

COMMENTS OF ELLEN HAAS, DIRECTOR OF THE CONSUMER DIVISION OF THE COMMUNITY NUTRITION INSTITUTE AND STEPHEN BROBECK, EXECUTIVE DIRECTOR OF CONSUMER FEDERATION OF AMERICA

We are grateful for this opportunity to submit for the record our views on an important aspect of H.R. 7039, the cost-sharing provisions proposed to be applied to Saltonstall-Kennedy Act funds.

The Community Nutrition Institute (CNI) is a non-profit public interest organization that supports the development of a national food and nutrition policy serving consumer needs at the community level. It publishes a weekly newsletter (CNI Weekly Report) on food and nutrition issues. It provides training and technical assistance services as well as sponsoring workshops and conferences on public policy issues in food and nutrition.

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The Consumer Federation of America (CFA), founded in 1968, is the largest consumer membership organization in the country. As its name suggests, it is an organization of organizations, including Consumers Union (publisher of Consumer Reports), both major senior citizen groups (National Council of Senior Citizens and American Association of Retired Persons), more than 60 grassroots consumer groups, and numerous organizations concentrating on food/nutrition issues. CFA's State and Local Resource Center provides information and technical assistance to state and local groups.

In addition, CFA has a tax-emempt foundation, the Paul Douglas Consumer Researh Center, established in 1972 with a contribution by the late Senator Paul

Douglas. It is the goal of PDCRC to advance the interests of consumers through research, educational and charitable activities. With grants from the U.S. Office of Consumer Education, it has provided a variety of services to grass-roots groups, consumer protection agencies, and consumer educators. These include four special publications, two national consumer education conferences, three regional consumer education conferences, and numerous issues of the Action Faction, a newsletter of consumer resources.

Since November 15, 1979 when NMFS published a solicitation for proposals to carry out fishery development projects (44 Fed. Reg. 65806) our organizations have been reviewing with that agency its cost-sharing requirements. We submitted comments on their 20–30 percent minimum cost-sharing guidelines—published January 18, 1980 (45 Fed. Reg. 3627)—indicating this requirement would exclude consumer organizations from participation in the $10 million program. Numerous other organizations submitted comments to the same effect.

The agency shares our view that consumer organizations which propose innovative and feasible programs should not be barred from participating in Saltonstall-Kennedy Act funding on account of budgetary constraints. We support the views of Richard Frank, Administrator of NOAA, who urged more flexibility than that offered in H.R. 7039 when he testified before this subcommittee on May 6, 1980.

As you know cost-sharing is most appropriate where the project has the greatest likelihood of being profitable to the applicant. It is least appropriate where the benefits will be reaped by the whole industry and consumers in general, with no particular advantage reserved to the applicant. We urge you to amend H.R. 7039 with language that requires the agency to establish cost-sharing guidelines that take into account the differences in types of organizations involved and the nature of the program or project.

For the record we enclose copies of our correspondence and comments to NFS, a letter to Secretary Klutznick written by Esther Peterson, Special Assistant to the President for Consumer Affairs, and the comments of eleven other consumer and public interest organizations. Each of these documents relates to cost-sharing.

If you have any questions on this matter we would be happy to address them directly or through Myron Zeitz, Staff Attorney at CNI.